

## IN SENATE.

MONDAY, March 22, 1875.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.  
The Journal of the proceedings of Saturday last was read and approved.

## ADJOURNMENT SINE DIE.

Mr. BOUTWELL. I submit a resolution which I will call up for consideration after the resolution now before the Senate shall have been disposed of.

The PRESIDENT *pro tempore*. The resolution will be read for information.

The Chief Clerk read as follows:

*Resolved*, That the Presiding Officer of the Senate be, and hereby is, directed to adjourn the Senate without day on the — day of —, A. D. 1875, at — o'clock.

## PAY OF PAGES OF THE SENATE.

Mr. MITCHELL. I offer the following, to lie over until to-morrow:

*Resolved*, That the Secretary of the Senate be directed to pay to the pages of the Senate at the rate of \$2.50 per diem pay to the 15th day of April, 1875.

The PRESIDENT *pro tempore*. The resolution will lie over.

## PRESIDENT'S ACTION IN LOUISIANA.

The Senate resumed the consideration of the following resolution, submitted by Mr. FRELINGHUYSEN on the 16th instant:

*Resolved*, That the Senate approve the action heretofore taken by the President of the United States in protecting Louisiana from domestic violence, and are of opinion that he should continue to recognize in that State the existing State government.

The question pending being on the amendment of Mr. ANTHONY to strike out all after the word "resolved" and insert the following:

That the action of the President in protecting the government in Louisiana, of which William P. Kellogg is the executive, and the people of that State against domestic violence, and in enforcing the laws of the United States in that State, is approved.

Mr. JOHNSON, of Tennessee. Mr. President, notwithstanding I have been in the habit of speaking in public for a number of years, sometimes in deliberative bodies and sometimes before the people, I confess that I appear before the Senate this morning under great embarrassment. I fear that the fact of my having obtained the floor on Saturday night and notice having been given that I would address the Senate to-day may have created an expectation with some that cannot be realized, and especially so with those who are not acquainted with me. If any such expectation has been created in the minds of any of those here present, I trust and hope that they will let themselves down, for they will be greatly disappointed on this occasion.

It was my intention when this question was first brought before the Senate not to participate in the discussion. My entrance into the Senate was of so recent a date and under such peculiar circumstances, that I had determined that I would not participate in any discussion during the present session of the Senate; but things have taken such a direction that I feel it incumbent on me to say something in reference to the resolution now under consideration; and what I may say on this occasion I want it distinctly understood grows out of no party bias or partisan feeling whatever, but proceeds from the ground which I take that the resolution proposes to cover and indorse an act and a measure that I think clearly violative of the organic law of the land. That being so, I could not get my consent, being compelled to vote against it in compliance with my view of the Constitution of the country, to do so without assigning at least some of the reasons which actuate me.

I ask the Secretary to please read the original resolution and then the substitute offered in lieu of it.

The PRESIDENT *pro tempore*. The Secretary will report the resolution and the amendment.

The CHIEF CLERK. The resolution originally submitted by Mr. FRELINGHUYSEN is in the following words:

*Resolved*, That the Senate approve the action heretofore taken by the President of the United States in protecting Louisiana from domestic violence, and are of opinion that he should continue to recognize in that State the existing State government.

It is proposed to amend that resolution by striking out all after the word "resolved" and inserting—

That the action of the President in protecting the government in Louisiana, of which William P. Kellogg is the executive, and the people of that State against domestic violence, and in enforcing the laws of the United States in that State, is approved.

Mr. JOHNSON, of Tennessee. In the first place, Mr. President, it seems to me that a resolution embracing questions of such great importance is not legitimately before this body, or, in other words, it is not legitimate to consider it before a Senate convened in such a session as we are now holding. I understand that the Senate has been convened in extra session for the purpose mainly of acting upon executive business, not embracing questions of legislation, but simply to act upon business pertaining to the executive department. The Senate being a part of the treaty-making power, the Senate having

to confirm or reject nominations that may be made, it is convened for these purposes; and I consider the legitimate business of the Senate during this session confined to matters falling under these heads; but the Senate has assumed and taken charge of measures that look far beyond this. If it is legitimate to consider the measure now under consideration by this body, it is legitimate to consider every question upon which the Administration has acted since its advent into power. It would be as legitimate, for instance, to offer a resolution expressing an opinion in reference to reducing the expenditures of the Government, saying that that ought to be done, that retrenchment should be commenced, that we should return to a sound currency, and a long list of questions that might be enumerated.

Again, it seems to me we are traveling still further out of the record when the Executive goes forward and presumes to act in advance of the Legislature for the Legislature to reverse positions with the Executive and take up his acts and approve them. Ordinarily measures are presented to the consideration of Congress, and when Congress acts upon them it is the duty of the President to consider its acts and to approve or reject them, and it is not the duty of the Senate or the Congress of the United States to sit in judgment, as it were, upon his acts and approve or reject such measures as he may think proper to act upon. This is reversing the whole order of things, reversing the origin of legislation; it is reversing the policy and the principle on which the Legislature has acted for a number of years, or perhaps from the very origin of the Government to the present time.

I presume every Senator remembers well the famous resolutions brought forward years ago by the distinguished Senator from Kentucky, Mr. Clay, in reference to General Jackson, resolutions condemning him for the removal of the deposits from the Bank of the United States, condemning and censuring that act in strong terms. Both Houses of Congress were together then; they were sitting as the legislative department of the Government. Notwithstanding the Senate passed those resolutions, it was considered, and so determined by the country afterward, that they were illegitimate and that it was not the place of the Senate to pass upon the action of the Executive unless they were sitting as a court of impeachment. But now we are called upon as a Senate to approve past acts of the President of the United States. The resolutions adopted by the Senate in regard to the action of General Jackson when he was President of the United States was at a time when both Houses of Congress were in session, when they were convened under the provisions of the Constitution; and yet though they acted in that position, the separate action of the Senate in regard to the act of the Executive was subsequently determined and declared by this body to be unconstitutional and expunged from the Journal of the Senate of the United States.

It seems to me that that should settle the question most clearly and prove that we have no such authority, especially in the absence of the other House. There are many things that it is as legitimate for us to express an opinion upon as upon this resolution. What does this resolution propose? It seems that it has required great care and attention on the part of those who have prepared this resolution to get it in its present shape. The first resolution, introduced by the Senator from Indiana, [Mr. MORTON,] was drawn up in somewhat broader terms, perhaps too broad for some members of the Senate to support. Then the Senator from New Jersey [Mr. FRELINGHUYSEN] introduced a resolution, seemingly not so broad. Then came the substitute proposed by the Senator from Rhode Island [Mr. ANTHONY] which seems to narrow it down almost to an abstract idea; but when we come to get at it in substance, the resolutions are all the same, and a mere modification in the matter of verbiage to suit the particular views of some individual does not change the substance in the slightest degree. It is simply calling upon the Senate to express an opinion in reference to the executive conduct in the organization of the State of Louisiana and to approve of that act.

Now the query comes up, what has been the course of the Government in reference to cases of this kind? I will refer to one for the sake of making an introduction to what I am going to say; and it is a case which occurred in 1866. In the State of Tennessee, in a reorganization of government there, there was a governor elected and a Legislature elected under an amended constitution which had been adopted by the people in convention amending the original constitution. The Legislature was convened; the governor was qualified and in the discharge of his duties as governor of the State. Here was the legislative department, here was the executive department, here was the judicial department, co-ordinate branches of the government. According to the theory that has been acted upon by the States and by the Federal Government, each one of these branches of the government, each one of these departments, should move in its appropriate sphere, and one has no right to encroach upon the others.

When the Legislature was convened, there came to be a difference of opinion between the governor of the State and the Legislature, and that difference of opinion became almost factious; the Legislature became refractory and the governor became refractory. The governor undertook to control the Legislature. The Legislature refused to keep a quorum. Here was a contest between two civil departments of the government of the State of Tennessee. The governor wanted his policy carried out, his measures acted upon. The

Legislature were opposed to them, and for the purpose of defeating the governor in carrying out his plans they reduced the number of members present below a quorum.

Here was a struggle between two civil departments of the government, the legislative and the executive. According to the theory and according to the constitution itself they were co-ordinate branches of the government and one had no right to encroach upon the other. We know the provision that is made in nearly all the States, and perhaps in all of them, in the establishment and in the government of Legislatures. There are certain rules prescribed. The executive department is laid down, the legislative is prescribed also, and the Legislature has the power to be the judge of the qualifications and elections of its own members. It has a right to prescribe rules for its own government; it has the power to compel the attendance of absent members, thereby making inherent in the body the power to preserve its organization and its existence, and the responsibility is upon the Legislature and not upon the governor. To defeat some measure that was favored and advocated and recommended by the executive department the members of the legislative department reduced the Legislature below a quorum. Then the struggle came. The executive assumed the high prerogative of taking charge of the Legislature and having the members brought in and compelled to act. Some of the members tendered their resignations which were rejected by the governor; others absented themselves or refused to vote, and thus reduced the house below a quorum. Here was almost the precise case that you have in Louisiana. Here, though the struggle was not strictly between the governor and contending members for seats in the Legislature, the main issue was between the Legislature and the governor. That was the great struggle. We find in the case of Louisiana, and it is so said and conceded by all who speak on the subject, that the military was there obeying the behests of the governor in organizing the Legislature and organizing a Legislature that favored him. In principle it is precisely the same case. Let us see what was the action of the government in the first case referred to in 1866.

EXECUTIVE DEPARTMENT, July 5, 1866.

SIR: As it is evidently the design of your resignation to reduce the house below a quorum, and to break up the Legislature, the same is not accepted.

W. G. BROWNLOW.

Hon. M. E. W. DUNNAWAY.

Here was an attempt to force a member to act by a refusal of his resignation on the part of the governor. It was not for the governor to organize the Legislature; it was not for him to compel the attendance of absent members. No; that was a prerogative belonging to the body itself and not to the governor. I proceed with the account of the transaction:

Mr. Williams, member from Carter County, sent in a communication, declaring that he could not and would not participate in adopting the proposed amendment until he had first submitted it to his constituents, and he therefore refused to attend the session.

Well, that is a pretty good reason on the part of a member.

The governor applied to the military commander of the district for assistance in bringing the fugitive members back to their duties, when the following correspondence took place.

General George H. Thomas was then in command of that department, and he was induced by the governor to apply to the Lieutenant-General of the Army, here at that time, for military aid to assist Governor Brownlow in organizing the Legislature. This is his dispatch:

NASHVILLE, TENNESSEE, July 14, 1866.

Lieutenant-General GRANT, Washington:

Some of the members of the house of representatives of the Tennessee General Assembly conduct themselves in a very refractory manner, absenting themselves to prevent a quorum, thus obstructing business.

The governor cannot manage them with the means at his disposal, and has applied to me for military assistance. Shall I furnish it?

GEO. H. THOMAS,  
Major-General Commanding.

This dispatch was sent to the Lieutenant-General of the Army at that time—and in calling him by name it is simply to be understood, for it is not my intention on this occasion to give utterance to a single personal expression, but to speak of public acts in the manner and mode that a public man has a right to speak of them. This dispatch was brought to the Secretary of War, by the Secretary of War it was brought to the President of the United States, and this reply was prepared and forwarded to General Thomas, to which I call the attention of the Senate:

WASHINGTON, D. C., July 17, 1866.

General Grant will instruct General Thomas that the facts stated in his telegram do not warrant the interference of the military authority.

The administration of the laws and the preservation of the peace in Nashville belong properly to the State authorities, and the duty of the United States forces is not to interfere in any way in the controversy between the political authorities of the State, and General Thomas will strictly abstain from any interference between them.

There is the precise case and that was the action of the Government. It was thought then that that was a civil struggle, a contest between two divisions of a State government, with which the military authority of the United States could not interfere, as stated in the telegram sent back by him. That dispatch was signed by the Secretary of War, but written in the presence of the President, and sent by Gen-

eral Grant to General Thomas, saying that this is not a case that calls for the interference of the military, and that General Thomas should abstain under all circumstances from any interference whatever.

It would seem that this marked the line between the civil and military authority. There is the precedent of the Government in that case, and the cases are almost parallel. That is what this Government thought then; that was the course that it took. But what are we told now? We see that the now President of the United States was familiar with and understood what was the construction of the Government in cases of this kind as to the interference of the military with the civil power. We see that the question is not a new one to him, and that he has not acted without proper and thorough information upon the subject. If he conveyed in a telegram an order of this kind to General George H. Thomas, of course it must have been understood by him what was the true doctrine and principle upon which cases of this kind should be managed by the military.

But there is another circumstance in this line of thought, a great fact as I conceive it, and that is that in 1867 General Sheridan was in command of the fifth military district, as it was called at that time, and that his management of that district produced so much dissatisfaction, such was his officious interference, such were his oppressive acts, that there was one general wail, one united murmur coming up from that section of the country, and that was for his removal, and he was removed from the command.

The complaints against him originally grew out of his manner of executing the so-called reconstruction laws. The Attorney-General gave an opinion as to their meaning which seemed not to suit the views of this commandant, and when he telegraphed this fact to the commanding general at Washington that officer replied to Sheridan:

Enforce your own construction of the military bill until ordered to do otherwise. The opinion of the Attorney-General has not been distributed to the district commanders in language or manner entitling it to the force of an order.

He persevered in his course and made many removals of local civil officers, and finally his conduct became such that he was taken from that district.

I merely refer to these facts to show that what now transpires is nothing new to the parties engaged in the work of usurpation, in the work of tyranny, in the work of violating the organic law of the land, which is being transacted. In consequence of this wail that came up from the people it was determined by the President then that this man should be removed, and his removal was ordered in this order, dated August 17, 1867:

Major-General George H. Thomas is hereby assigned to the command of the fifth military district, created by the act of Congress passed on the 2d day of March, 1867.

Major-General P. H. Sheridan is hereby assigned to the command of the Department of the Missouri.

Major-General Winfield S. Hancock is hereby assigned to the command of the Department of the Cumberland.

That order was changed afterward on account of the indisposition and sickness of General Thomas, and General Winfield S. Hancock was sent to take command of the fifth military district, which included the State of Louisiana, by this order of August 26, 1867:

Major-General P. H. Sheridan will at once turn over his present command to the officer next in rank to himself, and proceeding, without delay, to Fort Leavenworth, Kansas, will relieve Major-General Hancock of the command of the Department of the Missouri.

Major-General George H. Thomas will, until further orders, remain in command of the Cumberland.

It will be remembered by most persons, and especially by members of the Senate, that when General Hancock took command some of the persons who had been removed from office were reinstated and peace and quiet were restored to the department; general satisfaction was insured and General Hancock in an order addressed to the people of that district laid down the true dividing line between the military and the civil power and gave supremacy to the civil authority over the military, and sustained and restored the civil authority in that department. Perhaps I might as well read the order issued by General Hancock on assuming command:

First. In accordance with the General Orders No. 81, Headquarters of the Army, Adjutant-General's Office, Washington, District of Columbia, August 27, 1867, Major-General W. S. Hancock hereby assumes command of the fifth military district—the department composed of the States of Louisiana and Texas.

Second. The general commanding is gratified to learn that peace and quiet reign in this department, and it will be his purpose to preserve this condition of things. As a means to this great end, he regards the maintenance of the civil authorities in the faithful execution of the laws as the most efficient under existing circumstances. In war it is indispensable to repel force by force, and overthrow and destroy opposition to lawful authority; but when insurrectionary force has been overthrown, peace established, and the civil authorities are ready and willing to perform their duties, the military power should cease to lead, and the civil administration resume its natural and rightful dominion.

Solemnly impressed with these views the general announces that the great principles of American liberty still are the lawful inheritance of this people and ever should be. The right of trial by jury, the *habeas corpus*, the liberty of the press, the freedom of speech, and the natural rights of persons and the rights of property must be observed. Free institutions, while they are essential to the prosperity and happiness of the people, always furnish the strongest inducements to peace and order. Crimes and offenses committed in this district must be referred to the consideration and judgment of the regular civil authorities, and these tribunals will be supported in their lawful jurisdiction.

Should there be violations of existing laws which are not inquired into by the civil magistrates, or should failures in the administration of justice by the courts be complained of, the cases will be reported to these headquarters, when such orders will be made as may be deemed necessary. While the general thus indicates his



purpose to respect the liberties of the people, he wishes all to understand that armed insurrections or forcible resistance to the laws will be instantly suppressed by arms. By command of Major-General W. S. Hancock.

When this change was made in the command of that district there sprang up a controversy between the Executive and the commanding general of the Army, the latter protesting against the removal of General Sheridan, alleging that he was a very popular man and that to remove him was violating the will of the people; but notwithstanding this assertion, which was mere assertion and so stated and proven to be at the time, quiet and order were restored by General Hancock. Some of the reasons for removing Sheridan I will give from a communication made at the time:

Their affairs appear to be in a disturbed condition, and a bitter spirit of antagonism seems to have resulted from General Sheridan's management. He has rendered himself exceedingly obnoxious by the manner in which he has exercised even the powers conferred by Congress, and still more so by a resort to authority not granted by law nor necessary to its faithful and efficient execution. His rule has, in fact, been one of absolute tyranny without reference to the principles of our Government or the nature of our free institutions. The state of affairs which has resulted from the course he has pursued has seriously interfered with a harmonious, satisfactory, and speedy execution of the acts of Congress, and is alone sufficient to justify a change. His removal, therefore, cannot "be regarded as an effort to defeat the laws of Congress;" for the object is to facilitate their execution, through an officer who has never failed to obey the statutes of the land, and to exact, within his jurisdiction, a like obedience from others.

That is what was said then to the general in command of the Army on the transfer of General Hancock to this department; and after taking command of the department he issued the orders that I have alluded to, giving general satisfaction and acknowledging the supremacy of the civil over the military authority of the country.

In view of these facts, the query comes up in this distracted condition of affairs in Louisiana, why is it that this man has been selected and sent back to those people who before condemned his acts and prayed for his removal? Why is it? It was known that he was a source of altercation and dissatisfaction when there before; and why was it now in contemplation to send there an enemy, a man who was obnoxious to that whole people, except to a few perhaps who may have been interested in a particular line of policy or measures or something that they wanted to accomplish? How many distinguished men are there in the Army who could have been sent, and why should he have been selected to be sent there? Was it for the purpose of irritation? Was it for the purpose of provoking that people to acts of violence? Was it for the purpose of getting up insurrections and mobs and riots, so as then to raise the cry "these southern people are in revolt," and in the midst of the war-cry and through the prejudices of one portion of the country excited against another go into a presidential election? It is very easy to see what the result would be, or what the expectation might have been. No; "let us have peace!"

I know the determination of that people. Their great object is to be restored back into the Union upon equal footing with all the other States, and have a fair participation in the legislation of the country. That is all they desire. But what is that to those who are acting behind the curtain and who are aspiring to retain power, and if it cannot be had by popular consent and the approval of their public acts would inaugurate a system of terrorism, and in the midst of the excitement, in the midst of the war-cry, triumphantly ride into the Presidency for a third presidential term; and when that is done, farewell to the liberties of the country. [Applause in the galleries.]

The PRESIDENT *pro tempore*. The Chair will interrupt the Senator at this moment to remind the galleries that it is contrary to the rules either to approve or disapprove. The Sergeant-at-Arms will put sufficient force in the galleries to maintain order.

Mr. JOHNSON, of Tennessee. Sir, it is my honest conviction that the real meaning of all this is a desire for a third term for the Presidency of the United States, violating the example that Washington set and which has become equal to a part of the Constitution by the general acquiescence and approval and almost looked upon as sacred as if it was a part of the Constitution itself. Even Washington, the Father of his Country, when he had served four years, wanted to retire at the expiration of his first term. He thought that was long enough, and his farewell address was partly prepared at the termination of his first term of four years; but being prevailed upon by those who surrounded him, in view of the peculiar condition of the country, to accept a second term when that expired, he terminated his connection with the Government. That example has since been pursued and followed and looked upon as a part of the Constitution of the country. But I suppose it is almost out of order to refer to Washington now! Is not the present condition of affairs humiliating when we look at the example that he set in many things? Look at the great probity of his character. When he accepted office what did he say in reference to the morals of the country and the expenditures of the Government? In his message that he sent to Congress with regard to making provision for the executive department he asked them to make no further provision for the executive department than was absolutely necessary to defray the legitimate expenses of the office. We know furthermore that Washington was opposed to a third term, and set the example of serving but two. We know also that in sustaining the morals of the country, and in setting an example both by his practice and in precept, Washington received no more while he was serving the country even in the Army than a bare sufficiency to defray his expenses.

There is a provision contained in the Constitution which declares that "no title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall \* \* \* accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state." The minds of those who made the Constitution were directed to the other side of the water; they thought temptation was most likely to come from that direction. If in the last line of this clause of the Constitution they had added "or any citizen of the United States," what a fortunate thing it would have been. [Laughter.] More danger lies in gifts and presents and gratuities from citizens of the United States to public officers than from any prince or potentate or foreign power. Here it is in our midst, right among us, and if some Senator were now to offer a resolution suggesting the propriety, and giving it as the Senate's opinion, that the Constitution ought to be amended in this respect, it would be a subject of very important consideration about this particular period.

Here let me refer to a resolution passed in 1695 in the House of Commons in reference to the speaker of that body, Sir John Trevor, who in thirty years mounted from the lawyer's stool to such dignity, that in a national and royal procession for him was reserved a very distinguished place; and how high this distinction was you will understand when you know what this procession was in which he thus appeared. It was the funeral of Queen Mary, the wife of King William III. Her burial took place on the 5th of March, 1695, a day long memorable in London. The queen had died young; she died beloved. Her death was sudden, almost terrible; she was struck down by the malignant small-pox. Public sorrow for Queen Mary was great—never was so universal a mourning, constrained by true sympathy. Parliament resolved to follow her body to the grave. Never before had Parliament followed a royal female. They did so, however; robed in long cloaks of scarlet and black, attended by the maces, the emblems of their dignity, both the House of Lords and the House of Commons came after the hearse, on which was laid the purple velvet-shrouded coffin. The streets were hung with black. It was, in truth, a pageant of unusual solemnity. The whole English nation was represented there—the nobility, the judges, the lord mayor, all the authorities both civil and religious; and walking in this grand procession between the Peers and the House of Commons, in a space set apart to do him honor, with a mace borne before him and his train carried up, there walked that knavish, squinting lad, now grown into a knavish, squinting man. His name was Sir John Trevor. As speaker of the House of Commons he took this place, nor had any of their speakers before him been thus distinguished as the first commoner of the realm; no former speaker had been honored by heading in a royal procession the whole House of Commons. Thus was Sir John Trevor, as the first commoner of the realm, publicly ennobled on the 5th of March, 1695. Within a week, in the eyes of all England, he was a man the lowest and most degraded among Englishmen. This was how it happened. We saw Trevor on that 5th of March, as speaker of the House of Commons, leading the house after Queen Mary's coffin. What is it that only seven days later Trevor had to do as speaker? Standing in his high place, standing there before all the representatives of England, he had to read aloud words to this effect:

*Resolved*, That Sir John Trevor, speaker of the house, for receiving a gratuity of one thousand guineas from the city of London, is guilty of a high crime.

This was the resolution of the House of Commons, and this was what England did in 1695. Notwithstanding there has been so much reference made to the corruptions of England and the English government, such was their view and such was their action in reference to the speaker of their House of Commons who had received a thousand guineas as a gratuity for his influence and assistance in passing a bill through the House for the benefit of the city of London. A thousand guineas! Only \$5,000! If you look around and contemplate for a moment can you not find that this principle could be applied in this country? Perhaps it would be as legitimate to have a resolution of that character under consideration for the expression of opinion in this body to-day as the one that we have before us. This resolution was adopted on the 12th of March, 1695, now one hundred and eighty years ago. It lives in history. Notwithstanding the government of England has been called corrupt, that was their view of gratuities. We find that they carried it so far as that. You will find it in Macaulay or in the History of the Speakers of the House of Commons. They carried this proposition so far that he was made to read the resolution so as to feel to the fullest extent his own degradation. When the resolution was adopted he was made to get up and read the resolution which condemned him and which expelled him from the house.

This would be just as legitimate a subject for the Senate now to consider as the one before us. I might express an opinion in reference to citizens receiving gifts from citizens, when it is provided in the Constitution of the country that they shall not receive them from any foreign prince, potentates, or power. Why not consider a subject like that? Let the popular heart understand it and let it respond. It is time we turned our attention to things like these. Where are we going? What is the condition of the country? I merely refer to this for the purpose of making a general application to anybody that is guilty of like conduct. That is what England did

to one of her speakers who had accepted gratuities from a corporation for his influence in its behalf.

When we get to the Kellogg government in Louisiana what do we find there? Do we find a case like the one to which I have called the attention of the Senate and then do we find the action to correspond with the action then taken? When we get to Louisiana we find that Kellogg comes in as governor; how? A committee of the Senate, composed of able gentlemen, made a report in reference to Mr. Kellogg and the government of Louisiana, and in the conclusion of their report they say:

It cannot be maintained that its prudent exercise violates the rights of the States, because the States, for their own protection and security, have conferred the power upon the National Government; and this Government cannot refuse or neglect to exercise it in a proper case without disregarding the obligation which the Constitution has devolved upon it. We think the melancholy condition of the people of Louisiana, who are substantially in a state of anarchy—

Mark—

makes it the duty of Congress to act in the premises.

The committee report that it is the duty of Congress to act in the premises. The committee who made this report argue I think very ably and refer to the Constitution of the United States to show that it is not the Executive, it is not the Senate, it is not the House of Representatives, but the United States that is to guarantee to every State in this Union a republican form of government. Is the President "the United States?" When and how did the President get to be "the United States?" The Constitution reads:

The United States shall guarantee to every State in this Union a republican form of government.

Does that authorize the Executive upon his own volition, upon his mere *ipse dixit*, to take charge of a State government in person or by his agent, some man selected from the Army? No, sir, it authorizes no such thing; and the interference with the State of Louisiana today by the President taking charge of that government is a palpable violation of the Constitution of the United States. The committee in their report say:

Therefore your committee recommend the adoption of the following resolutions:  
1. Resolved, That there is no State government at present existing in the State of Louisiana.

"That there is no State government at present existing in the State of Louisiana." Hence immediate action is to be had. The State has reached that point in which she shows her incapacity, her want of capability to govern herself, and, as the committee ably argue, it must be a very extreme case for even Congress and the President together to act in reference to a State government. I should think in a great case of emergency, when the State was in anarchy, when all was confusion and disorder, there might possibly arise a condition of affairs in which the Government of the United States, "the United States," according to the forms of law and the Constitution, might pass a law for the rescue of a community like that from anarchy and disorder; but the case should be extreme and the interference should be well considered before it is done. But how is it in this case? The President of the United States assumes to take command of the State and assign these people a governor. What does he say himself on this point? Let us put what he says with what the committee say. He says in his message sent to the Senate, as my friend from Maryland [Mr. WYTHE] read the other day, but I read it again in this connection:

It has been bitterly and persistently alleged that Kellogg was not elected. Whether he was or not is not altogether certain, nor is it any more certain that his competitor, McEnery, was chosen. The election was a gigantic fraud, and there are no reliable returns of its result.

Here are two men who have been contending for the gubernatorial chair of a State, neither of them entitled to it, and in that contest there has been a most "gigantic fraud" practiced, in the language of the President, thereby precluding and disqualifying either for holding the office, but the President finds a usurper in power, and he takes it upon himself to make the Government of the United States a party to his usurpation. If this course is to be practiced, and the Federal Government is to be made a party to every one who is an aspirant for the office of governor or for a seat in a Legislature, if it stands here ready and willing to make itself a party to any contestant for power in a State, I say we have inaugurated a state of things that will result in the overthrow of the States which compose this Union. In that case the existence of the State governments would depend entirely on the interference of the Federal Government. The contest would be which would be the stronger party successful in the State, and then, it being successful, it is made incumbent on the party in power here to maintain and preserve it as a State in such shape, dependent on the bayonet and dependent on the sword. In this case this able committee in their report made by these distinguished men, all united and agreeing in politics, four in number, say there was no government there, and they reported a bill for the United States to provide for the difficulty and not to authorize General Grant to take possession of Louisiana and make himself the supporter of one of the parties there.

Is not this monstrous in a free government? The time has been in this country, and since my recollection, when had an act of usurpation been perpetrated and practiced like this it would have produced a shock throughout the nation. The nation would have been shaken from one extreme to the other, and would have been ready to have

hurled from power the perpetrator of such an act. But now we see things differently. We see men exercise powers not authorized by the organic law of the land. They have gotten outside of the instrument altogether, and they are acting in a way that will bring this Government to an end or change its character so that its ancient features and its familiar structure will all be lost. What more do we find? In looking to General Grant's message he says:

I sent General Sheridan there.

As though it were a matter of cognizance for him to look over the country! Then when we come to the report of the Secretary of War we find a very strange letter, with all due respect to the Secretary of War—I am merely referring to him as such; he wrote the following letter to General Sheridan:

WAR DEPARTMENT,  
Washington City, December 24, 1874.

General P. H. SHERIDAN,  
Chicago, Illinois:

GENERAL: The President sent for me this morning, and desires me to say to you that he wishes you to visit the States of Louisiana and Mississippi, and especially New Orleans, in Louisiana, and Vicksburg and Jackson, in Mississippi, and ascertain for yourself, and for his information, the general condition of matters in those localities. You need not confine your visit to the States of Louisiana and Mississippi, and may extend your trip to other States, Alabama, &c.—

That means all States—

if you see proper; nor need you confine your visit, in the States of Louisiana and Mississippi, to the places named. What the President desires is to ascertain the true condition of affairs, and to receive such suggestions from you as you may deem advisable and judicious.

So much for that. The concluding part of the letter of the Secretary of War is in the following language:

Of course you can take with you such gentlemen of your staff as you wish, and it is best that the trip should appear to be one as much of pleasure as of business, for the fact of your mere presence in the localities referred to will have, it is presumed, a beneficial effect.

Yes, it is to be a trip of pleasure, of leisure, to look at the condition of the country with a retinue of officers, with the glittering sword and regalia that pertain to the military! They are to display themselves through the country and let the people, the sovereigns, the working, producing people of the country, see in what gigantic style and magnificent splendor the representatives of General Grant appear in that region of country! It is to be a trip of pleasure and display, and he thinks it would have a beneficial effect! The Secretary further says:

The President thinks, and so do I, that a trip South might be agreeable to you, and that you might be able to obtain a good deal of information on the subject about which we desire to learn.

It might be agreeable to him, with a staff of officers, to visit the country, to display himself before the people and get such information as he wants, and I suppose manufacture public opinion if he could, and report to the President! He thinks it would have a beneficial influence upon that region of the country to see General Sheridan, the representative of the President of the United States, displaying himself all through those States!

What is still more remarkable, if I can turn to it, is a telegram dated New Orleans, January 4. I know we have had some special pleading in the case. The disturbance and interruption of the Legislature took place on that day, and they make a special plea that the general did not take command until about five hours afterward. But he comes forward and takes the responsibility, he is there all the time, although this was done before he nominally took command. He shows great willingness to take the responsibility while it would have exonerated these men from any liability:

[General Order No. 1.—9 p. m.]

Under instructions from the President of the United States, communicated through the Adjutant-General of the Army, the undersigned hereby assumes control of the Department of the Gulf, consisting of the States of Louisiana and Mississippi and the Gulf posts as far eastward as and embracing Fort Jefferson and Key West, Florida, including the forts in Mobile Bay, which will hereafter constitute one of the departments of the Military Division of the Missouri.

P. H. SHERIDAN,  
Lieutenant-General United States Army.

Here a general of the Army is sent back to a people, who had repudiated him, with authority to go and look over the country and to mark him out an empire, prescribing the limits of his government, what he should take under control; and there it is at his discretion. He marks the area, he describes the bounds or limits, and in it his power is as absolute as that of an emperor!

In all this proceeding does any one see anything of the General of the Army, who is by law at the head of the forces of the United States? Where is General Sherman all this time? Perhaps he may not be entirely in accord with this proceeding. General Sheridan is placed in direct communication with the President of the United States and the Secretary of War, and he is authorized to go South among those States, lay off his bounds, prescribe his district, and take command. Where is this authority derived from? From the President of the United States. It is true he is made Commander-in-Chief of the Army; but has he a right to exercise the power to lay off and define districts for another at his discretion? Was there ever such an assumption? Why could he not lay the whole South off in one military district and take charge of it himself?

Look at the growth of power; look at its advance; look at the usurpation; and when we come to bring ourselves to consider it



calmly and deliberately, without party bias and prejudice, it can be viewed as no other than an act of usurpation and an act of tyranny. Where does this power come from? And I might ask, where would it go? Referring to the other end of the avenue as President, not as an individual, I might ask the question:

Upon what meat doth this our Cæsar feed,  
That he is grown so great—

that he can prescribe and lay down empires and place commanders over them? It is time that the country should be awakened to and consider these things. If excitement has been so high in times gone by that many things have been overlooked, I think the time has arrived and I trust the excitement has gone down, so that the American people—a term not repeated much here latterly; the people used to constitute an important part of this Government, but now they have almost ceased to be any part of it—it is time that the people had begun to consider and weigh well these things.

I have shown you that in reference to this Kellogg government General Grant said it was "a gigantic fraud" and that neither Kellogg nor his opponent was entitled to the office, but having found a usurper in, he takes him by the hand and sustains him. Well, to come to the sitting of this recent Legislature, there seems to be an impression that the democrats on the one hand asked for the protection and interference of the military and then the republicans on the other. It seemed to be wholly a matter of party, not a matter of principle; first the democrats through this man Wiltz—I believe that is his name—asked the military to interfere and sustain him; and on the other hand when a protest was sent in by fifty-two men, I think, the military were called upon, and what did the military do? As General Sheridan says himself, Mr. Kellogg, the governor of the State, or rather the usurper, the pretender, a man who had assumed the government without authority and been sustained in violation of law, tells the military of the United States "put this man out, and put that man in," and the Legislature is organized upon the military. At the point of the bayonet and with the sword presented, through pretense of keeping peace, a Legislature is qualified and assumes legislative authority. That is a new way of qualifying members of a Legislature and contrary to the genius and theory of our Government. Have we gone back to Cromwellian times when Colonel Pride rode into Parliament booted and spurred? Here in the Legislature of Louisiana stand the military with drawn sword and fixed bayonets, and a Legislature is qualified accordingly and go into power. May we not well inquire—

Upon what meat doth this our Cæsar feed?

How has it come that all these things are being transacted in this country? We see in every step that we progress in the investigation of this case that it gets worse and worse, a state of things that ought not to be tolerated and ought not to be sanctioned. Is there any reason to believe, as is suggested in one of the reports, that there was danger of bloodshed? Was that a reason for the Army interfering as peace-makers? The mere contending members of the Legislature would not have shed much blood. In the case of Tennessee, where the military were forbidden to interfere, the Legislature got together and went on harmoniously and transacted their business and passed their laws. So in this case. If there was likely to be a riot or a disturbance of the peace, what should have been done? There was no application to the President of the United States for force as in case of insurrection or riot; and the furthest they ought to have gone was to preserve the peace and leave the contending parties of the Legislature and the contestants for office to settle their rights in the proper forum. There would have been no bloodshed; they would have managed to settle it; they would have gotten out of the difficulty without the shedding of blood. All this is thrown in simply to justify the arbitrary action which has been practiced by the military in Louisiana.

So far, then, as Louisiana is concerned, for the reasons I have given I cannot record my vote for the resolution. I do not vote against the resolution because it is a republican measure; I vote against the resolution because it is wrong in principle and calls upon the Senate to express an opinion favoring practices and usurpations by the Executive of the United States that I think unauthorized and unwarranted. If it stopped here I could not record my vote for it; but if we should record our votes sanctioning presidential interference in this case, what ought we to do in another? Why single out this particular act and in principle sanction this particular act and commit the Senate in opinion to all the high-handed kindred measures that have preceded it? There is another case of this kind which is familiar, and yet I beg the indulgence of the Senate while I refer to it for a few moments. History records that General Grant issued a proclamation to the people of Arkansas on the 15th day of May, 1874, in which he said:

Whereas said Elisha Baxter, under section 4 of article 4 of the Constitution of the United States and the laws passed in pursuance thereof, has heretofore made application to me to protect said State and the citizens thereof against domestic violence; and whereas the General Assembly of said State, convened in extra session at the capitol thereof on the 11th instant, pursuant to a call made by said Elisha Baxter, and both houses thereof have passed a joint resolution also applying to me to protect the State against domestic violence; \* \* \* and whereas it is required that whenever it may be necessary, in the judgment of the President, to use the military force for the purpose aforesaid, he shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective houses within a limited time:

Now, therefore, I, Ulysses S. Grant, President of the United States, do hereby

make proclamation and command all turbulent and disorderly persons to disperse and retire peaceably to their respective abodes within ten days from this date, and hereafter to submit themselves to the lawful authority of said executive and the other constituted authorities of said State; and I invoke the aid and co-operation of all good citizens to uphold law and preserve public peace.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the city of Washington this 15th day of May, in the year of our Lord 1874, and of the Independence of the United States of America the ninety-eighth.  
[L. S.] U. S. GRANT.

We find then that the Legislature elected with Elisha Baxter and Baxter as governor were maintained and recognized by executive proclamation as the true government, the one in authority under proper circumstances in Arkansas; and yet not more than nine months afterward a message was sent in to this body which is in the language I will read. Remember here was a government recognized, here was a government maintained in existence, and all evil-disposed persons, all riotous or insurrectionary people were warned to go to their homes within ten days and stay there, and then this message comes in:

To the Senate of the United States:

Herewith I have the honor to send, in accordance with the resolution of the Senate of the 3d instant, all the information in my possession, not heretofore furnished, relating to affairs in the State of Arkansas.

I will venture to express the opinion that all the testimony shows that in the election of 1872—

Mark you, prior to the issuance of the proclamation—

Joseph Brooks was lawfully elected governor of that State; that he has been unlawfully deprived of the possession of his office since that time; that in 1874 the constitution of the State was, by violence, intimidation, and revolutionary proceedings, overthrown and a new constitution adopted and a new State government established.

These proceedings, if permitted to stand, practically ignore all rights of minorities in all the States; also, what is there to prevent each of the States recently readmitted to Federal relations on certain conditions changing their constitution and violating their pledges, if this action in Arkansas is acquiesced in?

What does that mean, Mr. President? If one government is recognized in a presidential proclamation as being the genuine, true government, the lawful authority of the State, can it afterward be overthrown by a simple recommendation of the President of the United States? What does all this mean—

These proceedings if permitted—

What proceedings, if permitted? If this government of Arkansas stands, all the States that have been reconstructed will change their form of government! This is assuming that the constitutions of all the States readmitted under the reconstruction acts are to stand unchanged, immovable, unalterable through all time unless by the consent of the Federal Government. Has not any one of these States now in the Union, notwithstanding as he says they were readmitted under the reconstruction acts, power and authority to alter, change, and amend its constitution in such manner as its people may prescribe? Here is a blow struck at one of the fundamental principles of free government directly. It is denying that certain States in this Union are upon an equal footing with the other States, warning the country "if you sanction this government in Arkansas that I have sanctioned heretofore, but now for some reason"—best known I presume to himself—"I send you in a message to overturn and overthrow, other States may change their constitutions without the consent or permission of the Federal Government! What a doctrine! Go to the Constitution of the United States; go to the bill of rights of all the States. It is laid down in the bill of rights of each State of this Union and in the Constitution of the United States that the people have a right to change, alter, or abolish their form of government in their own mode and in their own manner within certain limits. That is of the very essence of a republican form of government. I should like to know what authority you have to interfere with the States in exercising that indefeasible authority? But we find lurking through almost every document, through every order we receive, this assertion of usurping power, denying the great principle of a free government which is inherent in the people. But let me finish the reading of this message; the last paragraph is:

I respectfully submit whether a precedent so dangerous to the stability of State government, if not of the National Government also, should be recognized by Congress.

I earnestly ask that Congress will take definite action in this matter to relieve the Executive from acting upon questions which should be decided by the legislative branch of the Government.

U. S. GRANT.

A threat! The iron hand, though clothed in softest silk, is in that paragraph. "If you do not do so and so," the inference is "I will." Would it not be well to have a resolution under consideration inquiring into the matter of the proposed exercise of such a power as this? Is it not more appropriate than the one now under consideration which is for indorsement.

I earnestly ask that Congress will take definite action in this matter to relieve the Executive from acting upon questions which should be decided by the legislative branch of the Government.

"If you don't, I will." Thus we see how power travels. An empire is laid off in the South for one military chieftain; a force bill is proposed in the House of Representatives; the indorsement of Congress is asked to what has been done; and is there nothing that lies behind all this? The change of position from May 15, 1874, to February 3, 1875, must be for some good reason. Can it be possible that the Executive had forgotten what he had done? It would be im-

pugning his memory or his intelligence to suppose he did not discover the inconsistency between the two papers. There must be some great reason that underlies all this.

With your force bill, with the authority to take away the State government of Arkansas, with the government of Louisiana usurped, with a military empire laid off, it seems as if a pretty good part of the Union had been usurped and put under the control of a dictator, and that the States North and West had better begin to look into this. It suits the purpose now to take charge of certain Southern States for the approaching presidential election. "When we get them firmly in our grip, when we have once fixed upon their necks the mailed heel of power," do you think the usurper will stop his hand? No; he will go on conquering, he will go on extending his military power until he has accomplished his purpose, and then perchance the time may come when somebody in this Hall may introduce a resolution:

Whereas great disturbance and dissatisfaction exist; for the purpose of preserving peace and harmony: Therefore,  
*Be it resolved*, That A or B is hereby declared President—

I do not care whether you call him President or monarch or king—for the next presidential term or "the next eight years."

What would you do? Where is the Army? Where is the Navy? Who is commander-in-chief? Who has a portion of the confederacy under his heel, the mailed heel of power, with a powerful party in the other States? What would you do? Do not all know the impotency, the weakness of an unarmed people when brought in contact with an army? The people would be powerless. Here in my place, not in a personal sense but a public one, as one of the Senators of the United States, I to-day warn this people against the approaching danger. I tell my countrymen that empire is ahead. Instead of having a free and republican government now, we have the kind of government that I will call their attention to. I hold in my hand a volume that treats upon the various kinds of government, defines them, and gives a proper definition. After laying down the three principal forms of government, monarchy, aristocracy, and democracy, then among the various enumerations the writer says that governments out of these three can be divided to infinity into mixed governments of various kinds, and one form is:

*Stratocracy* is a military government. This word is derived from two Greek words which signify "army" and "power."

We have got now "army" and "power." We have got a stratocracy; we have not got a democracy, and we have not got a republican form of government. How far off is empire? How far off is military despotism? I warn the people of my native country and of my native State of the danger ahead. On a former occasion, when there was great difference of opinion among us, I warned my countrymen against the dangers that were coming. I warned them against bringing on a strife and a contest that would result in the shedding of blood and the sacrifice of property. I warned them against that struggle which set man against man and put his hand against the throat of a brother. Yes, the land that gave brothers birth was drenched with the blood of brothers. I warned my countrymen against the catastrophe that has passed and gone. The great misfortune of my life, the deep feeling of my heart is that it turned out to be true. I wish I proved a false prophet. Now to-day in my place I warn the people of the United States against encroachments upon, against violations of, and against the total disregard of the Constitution of the United States. Do not let us talk about party; let us talk a little about country, for party on the one side or the other has run this Government well-nigh to destruction. Parties have been running the Government long enough. Let the people now lay hold of parties and run them. Let us save the country. What is the great cry now? It is "save the party," and so that the party is saved all is well, the country may go. Sir, let us try to save the country and save it in the original form of its Government as handed down to us by the founders of the Republic. I warn my country to-day against these encroachments that are being made on the Constitution of their fathers. If there is not a return made to those great principles, those great truths which are recognized in the Constitution, I tell you this Government is overthrown and its character changed.

Let us forget, then, that we have been divided into parties; let us teach the people not opposition to the Government, as has been the case sometimes. Great clamor was once made against the Government, and it was said the Government is this, or that, or the other. O, let us make the proper distinction; the Government is good enough; the organic law is all right; speaking in general terms, and administered according to its designs, it would produce happiness and prosperity to the people and result in making us the greatest Government in the world. We should make the distinction between the Government and the administrators of the Government. Let us bring the hearts of the people up to love the Government, while they oppose a cruel, a corrupt, a perfidious, a treacherous Administration that tries to overturn and overthrow the Government, and have a common effort made to sustain the Government and eject from power its corrupt and usurping rulers.

I know that I have almost always acted with one party, and I have acted on certain principles laid down for my guide, and I expect to pursue and follow them, carry me where they may, for in the pursuit of a correct principle we can never reach a wrong conclusion. The

Constitution is my guide, and I intend to follow it. When it is encroached upon according to my judgment, with all the ability that I may have I will resist the encroachment and call the attention of the country to it as well as I can.

So much then for the Louisiana portion of this question and the Arkansas portion. Now the government of Arkansas is going on, but Congress was called upon to interfere with it. Then if we could have the force bill passed all would be lovely! But there seems to have been some little doubt about it. Sheridan says the people are all banditti, and if he had a military commission the President need not disturb himself any further, for he could manage all the rest! We see the power that is asked for; we see the desire to exercise unauthorized powers. We see in every movement, in every phase, a desire to get from under the control of the people, to get from under the Constitution, which is nothing more nor less than the combined and expressed will of the people in the form of an organic law; and before it should be violated, even if it needed amendment, we should be patient and amend it in the mode and manner designated in the instrument as framed by Washington and his compatriots.

We are referred to that provision of the Constitution which says that the United States shall guarantee to each State of the Union a republican form of government. We see as we travel along in the discussion of this subject—and from our general reading of it we cannot but see, though partisan zeal and partisan interests may carry some so far as to assail it—that these encroachments are being made; and the query comes up, What is a republican form of government within the principles embraced in that provision of the Constitution which says the United States shall guarantee to each State a republican form of government? I know there has been much said about the sovereignty and rights of the States; but I know what the Constitution says. It declares that the powers not delegated to the United States by the Constitution are reserved to the people or to the States respectively. Ours is a mixed Government. I shall not discuss that question of sovereignty. It is one about which there has been much division of sentiment and about which there has been some controversy. I do not discuss that now; but I shall pass to the point where I think sovereignty resides. When we go into our theory of government and examine it, we find that all powers are derived from the people. The people wear the crown. They are the source of power, and they are sovereign. The State governments derive all their power from the people; the Federal Government derives all its power either through the States from the people or from the people directly; I shall not discuss that; but the source of power and sovereignty resides in the people, and they under our system of government can change their form of government in the mode and manner appointed by the State constitution and the mode and manner pointed out by the Constitution of the United States. This is the sovereignty that I contend for. I only fear that by usurpations, by arbitrary assumptions, by gross encroachments on the organic law, this may all be changed. As we see things going on, a power seems to have sprung up in the General Government to turn a State upside down or downside up, to turn a State outside in or inside out. A process of this kind after a while will change the whole character of the Government. But still let us hold our moorings and go back to the people, who are the source of all power; and before we attempt to exercise dangerous and doubtful powers either in a State or in the Federal Government let us go back to the source of all powers and have this question settled without violation of liberty or encroachments on their rights.

The time has arrived when it is as important to discuss the fundamental principles of this Government as it was when the Constitution of the United States was adopted in 1787. We have read the writings of Madison, Jay, and Hamilton, and many others who wrote upon the Constitution; we know the debates that sprang up in the convention in reference to the Government that should be formed. What was all this for? The design was to get the character, the principles, the frame of government in the public mind, so that we could have a standard by which we could measure what power should be exercised, and so that the representative, in whatever capacity he might be, should find there his standard and his guide and should conform his action to it. I would, for one, make the Constitution of the country as inflexible as the procrustean bedstead, so that it should be the standard of the agent acting under the Constitution when he came into power, and if he was too short for it, you should stretch him out until he fitted it; and if he was too long, you should simply reduce him to the dimensions of the standard and cut him off. When you have a standard in the public mind by which powers are to be measured the people have some security against abuse, they have some security against infringement, they have some security against violation of their organic law.

We have been in a civil war; the public mind has been agitated; the Constitution has been violated so frequently, torn in pieces and trampled under foot and totally disregarded so often, that the public mind at this day scarcely has any firm mooring to which it can anchor. All seem to inquire what the Congress does, not whether it has done according to the Constitution, not whether it has transcended the limits of its power—no, but "Congress does so and so," or "the Legislature does so and so;" and when that comes to be the case our Government is gone. Give us the Constitution. Give me the Constitution of my country unimpaired, and make no change or alteration in



it, except in the mode and manner pointed out by it. Give me back the Constitution of my country that you have taken away. Do not give me arbitrary power; do not give me usurpation; but give me back the Constitution that was made and handed down to me and you and the nation by our fathers. Give that back to us, and that is the great struggle of the age. If the country is not carried back within the pale of the Constitution, it is gone. Then as patriots, as men who love our country, who love constitutional government, who love a government of law, let us unite as a band of brothers to make one more effort in this period to restore the Constitution of the United States.

I dislike to be too tedious, but upon this subject of government I wish to read from a legal authority. I have shown the kind of government we have according to the best definition that I can find. The government that we have now in practical operation is a stratorocracy.

A stratorocracy is a military government. This word is derived from two Greek words, signifying "army" and "power."

The country understands it. That is the meaning of the government we have now, for what have we but "army" and "power." As far as in me lies I want to inculcate some of the first notions of our Government. I have no idea that I can inform or enlighten those who sit around me here; but there are others who are equally interested with them. Let me read from accepted legal authority:

Government is the manner in which sovereignty is exercised in the state. It is the means adopted to put the fundamental law of the state in action. It is the function and the very end of the government to apply the fundamental law for the happiness and advantage of all the citizens; for the constitution of the state is the lawful expression of the wants and of the will of all. Hence follows this necessary consequence, that the government is the delegate of society, the state, or the nation. The people, being sovereign, may adopt any of the forms of government which have been devised among men.

There have been at all times, and there are now, different forms of government, the three principal of which are democracy, aristocracy, and monarchy. But these different forms are combined and subdivided to infinity. From the African prince, who disposes freely of the lives and properties of his subjects, to the European monarch, whose power is contained within much narrower bounds; from the savage chieftain, who governs his tribe because he is the oldest man in it, to the republican magistrate who is elected by the free suffrage of his fellow-citizens, we perceive an infinity of organic combinations.

When the sovereign power is exercised by the people in a body, or by a majority of the people, the government is called a democracy. In this form of government all men are equal in a political and civil point of view. Democracy is the complete triumph of the principle of equality. All the citizens must have an equality of rights and not merely of privileges.

When the sovereign power is exercised by a small number of persons, in their own right, exclusively from the rest of the people, this form of government is called an aristocracy. In an aristocratic country the rulers claim the power to govern in their own right, and not by delegation, as in a representative democracy. Aristocracy and slavery spring from the same root. The first is the parent of the second, for the master and slave appeared on the same day.

When the sovereign power is concentrated in the hands of a single magistrate, the government is a monarchy, whether it bear the name of an empire, a kingdom, a duchy, or any other.

But the sovereign power may be divided and combined in a thousand different ways; hence result mixed governments, such as are most of those of civilized nations. Indeed, it may with truth be observed that the constitution of each state, consisting in the manner in which the powers of sovereignty are divided, seldom remains the same for any great length of time. Its form varies more frequently than it would strike one at first blush, in consequence of the encroachments which are insensibly made by one branch of the government over the others.

Is not that our condition? Look at the encroachments that are being made. True, they are sensible encroachments. Here the writer says that these governments are constantly changed, sometimes by encroachments almost imperceptible. Here they are patent, here they are palpable, here they are gross encroachments that are being made on the Constitution every day!

A representative democracy is a government where the powers of sovereignty are delegated to a body of men, elected from time to time, who exercise them for the benefit of the whole nation. Such is the General Government of the United States and of the several States of the American Union.

I think that is a very good definition.

A representative democracy is a government where the powers of sovereignty are delegated to a body of men, elected from time to time, who exercise them for the benefit of the whole nation. Such is the General Government of the United States, and of the several States of the American Union.

Despotism is the state where the powers of the government are not divided, but united in the hands of a single man, whatever may be the title he bears, emperor, king, sultan, president, &c.

A president can exercise despotic powers as well as anybody else, and this is the definition of a despotism: "Emperor, king, sultan, president," &c. We have mighty near got that on us here. The President is exercising all the powers of a king in a military point of view, turning it into a military government, a government of "army" and "power."

A commonwealth is that form of government in which the administration of public affairs is open or common to all persons, without any special regard to rank or property, as distinguished from monarchy or aristocracy.

A republic, which is another name for commonwealth, is that form of government in which the administration of affairs is open to all the citizens. In another sense the term republic, *respublica*, signifies the state independently of its form of government.

In our Constitution we find that—

The United States shall guarantee to every State in this Union a republican form of government.

There is the great idea of a republican form of government laid down—a commonwealth, a republic, a representative democracy. In fact these may be almost considered synonymous terms, for in sub-

stance they are the same—a commonwealth, a republic. These are the kinds of government that were in the minds of the framers of the Constitution when it was adopted. "Commonwealth." Where are we going, Mr. President? Is Louisiana a commonwealth as it now stands? Or is her government maintained by military power and that through the President of the United States? Is it not his government? Is it not military? What does he do in regard to Arkansas? Send a message to Congress with a threat, "If you do not do something, I will." It is not his place to interfere with either of the contending parties. If democrats apply for the exercise of improper power, he has no more right to extend it to them than to anybody else, and if republicans apply it is equally his bounden duty to abstain from any interference whatever. These States are commonwealths, they are republican governments, they are representative democracies. The whole Union being composed of the States makes it a representative government in one sense, representing the States and the States the people.

Now, sir, instead of passing the resolution which is before the Senate, how many other subjects, if we are disposed to take up questions that are as legitimate as this is, that are as germane to constitutional action as this can be—how many subjects are there that the time and the attention of the Senate might be occupied with? Would we go into all of them and keep the Senate here as a kind of town meeting to express opinions in reference to all the various questions that we think may agitate or please for the time being? Why the desire to have the committal of the Senate to an approval of this proposition? Why are we to do it? Instead of passing this resolution, I would go to the emperor of the empire, and if I were permitted to prepare a resolution that would be adopted I would incorporate into it the substance of Cato's reply in his last extremity when Decius, the ambassador of Cæsar, approached him and wanted him to capitulate, assuring him that his name would be second to none except that of Cæsar; I would say to this emperor, I would say to this dictator what Cato said to the ambassador of Cæsar:

Bid him disband his legions, restore the commonwealth to liberty.

Yes, I would say more; let him do this, and even I, humble as I am, and much as I am opposed to his encroachments, would be willing to go still further in the language of Cato in his reply to Cæsar; I would not only "bid him disband his legions, restore the commonwealth to liberty, submit his actions to the public censure, and stand the judgment of a Roman senate," but let him do this and "myself will mount the rostrum and strive to gain his pardon from the people" for the violations of the Constitution of his country and the transcendent impositions that he has practiced on the country. Yes, even I, humble as I am, for the sake of peace, for the sake of concord, for the restoration of prosperity and harmony among this people, would be willing to see him subjected to a pardon by my country and restored to favor, and I would mount the rostrum and strive to gain his pardon from an insulted and an indignant people. Yes, restore the Commonwealth to peace, prosperity, and happiness; restore this Government to what it was originally designed to be; restore this Government in fact and in practice to what it is in theory, the home of the immigrant, the asylum of the oppressed—do this, and it will become again the home of the immigrant and the asylum of the exile, where there is a home and bread for all. God preserve it and let it be saved! I would rather see this Capitol tumbled in ruins; I would rather see these pillars falling against each other; I would rather see it all wiped out of existence than to see the Constitution of my country destroyed. Save the Constitution, and in saving the Constitution you save the country, and in saving the country you restore it to peace, prosperity, and happiness.

What does the flag on the Dome of this Capitol to-day that flies in the breeze indicate? There is the image of the goddess of Liberty. On that flag are the stars of the United States. Is what is read in the character of that emblem true, or is it a false goddess? Is it a flag that is hung out merely to allure when the whole character of the Government is changed? Save the Constitution, bring the Government back to it, or the time will come—God forbid it, but I fear it will come—when the goddess of Liberty will be driven from this land staggering over fields of blood and carnage to witness the loss of a representative government. O, then, do not let us stop to consider about party; "the country, the whole country, and nothing but the country" should be our motto. Let us do this. In the language of Webster, let this Union be preserved, "now and forever, one and inseparable." Let us stand equals in the Union, all upon an equality. Let peace and prosperity be restored to the land. May God bless this people; may God save the Constitution; and I know when I give utterance to this sentiment it comes from a heart that never yet beat false to the Constitution or to the country.

Mr. President, let us come up to this work forgetting what we have been heretofore. Let us lay aside our party feelings; let us lay aside our personalities, and come up to the Constitution of our country and lay it upon an altar and all stand around resolved that the Constitution shall be preserved.

I thank the President and the Senate for their kind indulgence and attention.

Mr. BOGY. Mr. President, I beg the attention of the Senate for a few moments so that I may explain the reasons which will guide my vote on the important subject now before the Senate. I fully realize the embarrassed position in which I am placed in speaking imme-

diately after the distinguished and able Senator from Tennessee, [Mr. JOHNSON.] I am very well aware that the large crowd now occupying the galleries did not come here to listen to me. I am very well aware that had they known that I was to address the Senate in all probability very few of them would have been here; but it is a duty that I have to perform. The majority of the Senate have presented to the consideration of this body a resolution, and, *nolens volens*, we are called upon to vote for or against that resolution. I owe it to myself as one of the Senators on this floor, and as representing in part one of the large States of this Union, to give to the Senate and to the country the reasons which compel me to record my vote against this, in my estimation, most important proposition. In my estimation, at no time heretofore in the whole history of this Government has a proposition been presented to this body pregnant not only with so much importance but pregnant with so much mischief as the resolution now before us.

I am opposed to its adoption for two reasons. First, I hold that it is not properly before this body. I hold that the Senate now has no legislative power whatsoever; that we are called here by the proclamation of the President to discharge what are called executive duties, and those duties alone; that if we have any power upon the subject at all, it is as a part of a Congress composed of both Houses and not as a Senate sitting in executive session.

For this reason, if I had no other, I could not vote for this resolution. I hold it is not competent for the Senate to do anything at all of a character which is in the slightest tendency of a legislative nature. But a few days ago the Senator from Arkansas [Mr. CLAYTON] introduced a resolution here authorizing a committee to sit during the recess for the purpose of visiting the Indian country and obtaining information which would lead of course to legislation in the future. That resolution was laid upon the table, many members voting to lay it on the table because it was thought to be beyond the jurisdiction of the Senate sitting as an executive body.

If we have any jurisdiction on this subject whatever, it is derived from the fourth section of the fourth article of the Constitution, which imposes upon the United States the duty of guaranteeing to every State in the Union a republican form of government; a duty imposed upon "the United States," not upon the Executive, not upon the Senate, not upon the lower House, but a duty imposed upon "the United States" as a whole. That duty therefore can only be discharged by the speaking organ of the United States, which is the legislative department, not the Executive, not the Senate. For this reason, I repeat, if for no other, I could not vote for this resolution, which might be a precedent for action hereafter.

But, sir, I have reasons beyond the mere question of jurisdiction. I hold that if this resolution be adopted by the Senate sitting now in executive session and be ultimately ratified by the people in their elections, this Government has thereby undergone an entire and fundamental change; that from being a representative republican government we shall have gone into an imperial government; that from being a representative government speaking through the legislative department, the Executive of the nation will have control of the elections of the States and in that way have the power to have just such a Congress as he may deem proper to have.

For two years the question of Louisiana has been before this body. It has been discussed with an ability on both sides, I think I may well say, that has never been surpassed in the history of the Senate from the very beginning of the Government. For two years has this Louisiana question in all its phases been before this body, and the best minds, the ablest men, on both sides of this Chamber have time and again expressed their opinions and their views on this important subject. Yet at no time heretofore has the question been presented in the shape that it is presented now. The whole is boiled down to one simple proposition, not whether the government of Louisiana has been wrongful or rightful heretofore, not whether General Sheridan may or may not have discharged his duty as an officer of the Government, not whether Durell was right or wrong in his decision, not whether all the ten thousand different transactions which have occurred in that country have been right or wrong, but we are called upon to say that the interference of the Executive in that State is sanctioned by the Senate of the United States. We are called upon to sustain him regardless of the fact whether he had the right or not under the Constitution to interfere as he did.

The history of these resolutions, for there are three, is remarkably singular. The first resolution introduced upon this subject was by the Senator from Indiana, [Mr. MORRIS.] It was a bold, a manly, well-written, expressive resolution, partaking largely of the known characteristics of that Senator—bold, plain, decided, unmistakable. The Senator from Indiana introduced the following resolution on the 5th of March:

*Resolved by the Senate, That the State government now existing in Louisiana, and represented by William P. Kellogg as governor, is the lawful government of said State; that it is republican in form; and that every assistance necessary to sustain its proper and lawful authority in said State should be given by the United States, when properly called upon for that purpose, to the end that the laws may be faithfully and promptly executed, life and property protected and defended, and all violators of law, State or national, brought to speedy punishment for their crimes.*

This I say was a bold, plain, direct proposition, recognizing the action of the President, recognizing the government of Kellogg as the lawful government of that State, recognizing it as being republican in form: and it was plain and expressive. This resolution went

I presume from this Chamber to what is commonly known as a caucus. Of course I am not prepared to say exactly what transpired in that caucus as I was not invited to attend it, and therefore do not exactly and precisely know what took place within that body; but report says that this bold proposition, manly in character, like the Senator who made it and who I commend, partaking of his own rugged, strong, and manly disposition, and partaking of the region of country whence he comes, the great West, with no prevarication, with no wincing at all—that report says, went to a caucus and no doubt, as report says, it was discussed, sustained unquestionably by the Senator from Indiana with his known ability; but it was too bold, too plain, too decided, and the consequence was that another Senator was made to father another proposition, milder in form, subdued in words, but yet containing to a very large extent the same proposition though not so boldly expressed. On the 16th of March the Senator from New Jersey [Mr. FRELINGHUYSEN] offered the following resolution:

*Resolved, That the Senate approve the action heretofore taken by the President of the United States in protecting Louisiana from domestic violence, and are of opinion that he should continue to recognize in that State the existing State government.*

This resolution is much milder in words and means less than the resolution offered by the Senator from Indiana. That report says, was also discussed in this caucus, and there it was, like the former resolution, strangled, there it was killed, and another bantam, fathered by my friend from Rhode Island, [Mr. ANTHONY,] was brought before this body and is now the resolution that we have to vote upon. It is in these words:

*Resolved, That the action of the President in protecting the government in Louisiana, of which William P. Kellogg is the executive, and the people of that State against domestic violence, and in enforcing the laws of the United States in that State, is approved.*

This is milder than the second, and the second was milder than the first; but all these resolutions mean one thing—they mean no more and no less—that it was, and that it is, competent for the Executive of the nation, for the President of the United States, to interfere in the domestic affairs of a State beyond the requirements of the Constitution. That it is competent for the Executive when called upon in a proper manner to interfere in the domestic affairs of a State there can be no doubt, because the fourth section of the fourth article of the Constitution says:

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the executive (when the Legislature cannot be convened) against domestic violence.

This is a duty imposed upon Congress and not upon the Executive. Nevertheless as I am anxious to argue the question fairly as a great constitutional question, I admit that an emergency might arise in some of the States of the Union when Congress was not in session, when Congress could not be convened speedily, for the Executive of the nation to maintain temporary peace in a State to prevent the State from being destroyed by anarchy and violence. It might be so, although the Constitution does not in words confer such a power on the Executive. It is a power conferred on "the United States;" and yet a case might possibly arise where the Executive of the nation under a full sense of his great obligation to the country might feel called upon to interfere temporarily with a view of preventing a State from being to some extent destroyed. Yet that would be beyond the words of the Constitution and could only be done in an emergency which required speedy action.

But this was not the case at any time in Louisiana. The interference of the Executive through the Departments of the Government, through the Attorney-General and other officers of the Government, has been from the beginning in anticipation, in their estimation, of domestic violence and of domestic trouble. It has been on their part purely a voluntary, uncalled-for interference, and the object of this resolution is to sanction that interference.

The democratic Senators on this floor have time and again disapproved of the conduct of the Executive, of the conduct of Judge Durell, of the conduct of the military, of the conduct of the Lynch board, of the conduct of all the persons in the employ of that government in Louisiana, and upon that we are committed and estopped, and at no time has the attempt been made to sustain the Executive in his interference. At no time heretofore has the proposition been made to the Senate that the Executive should be sustained in that interference. Why is it proposed at this day? What is the object and what will be the effect before the country? At the beginning of this Louisiana discussion—I think some time in January—I took occasion to say in a speech that I had the honor of making before this body that if it were competent for the President of the United States to control the Army at his will and pleasure and to concentrate the Army in this place or that place without any restraint of law, merely in virtue of the oath which he has taken to support the Constitution of the United States, this Government had ceased to be a republican government and was nothing more nor less than a military despotism. What I said then I believed honestly, and I believe it now. In my opinion, if the conduct of the Executive is sanctioned by this Senate and shall be sanctioned by the people in the election that is to come two years hence, this Government has ceased to be republican and is nothing more nor less than a military despotism. For if it be proper,



if it be competent, for the Executive of this nation to concentrate in any State the military force of this Government to interfere in the organization of its Legislature, to interfere in elections, to control the State machinery in any shape or in any way, the whole system of the Government is destroyed, and he becomes in point of fact a great military despot, having all power in his hands, and this Senate and the lower House will sink to nothing; Senators will be elected by Legislatures created by the President, members of Congress will be elected by constituencies influenced by the action of the President, and in that way this great conservative body will be destroyed and Senators will be sent here merely to register the edicts of the Executive, no matter what those edicts may be.

Viewing the question in this light, looking upon this as a great step toward individual government, I am compelled not only to vote against the resolution but to do all in my power to prevent its passage; and as the passage of it in my estimation is a foregone conclusion, all that I can do as a humble Senator on this floor is to awaken the people, to draw the attention of the people of the country to the great danger which now threatens them.

Mr. President, history is so full of warning on the subject that it requires some courage to refer to that which must be and no doubt it will do no harm to go back and to see and to state and to point out how faithfully we are traveling the same broad road which other nations have traveled heretofore. Caesarism, a modern word, has become very common to express individual power. It does express it very well, because it is perfectly historical. Individual power in modern times is called Caesarism. What is meant by Caesarism? By it is meant power in the hands of one man, and it had its origin two thousand years ago. Caesar himself attempted to establish Caesarism. The "great Julius" himself attempted it, and if any man on the face of the earth was worthy of being a Caesar certainly he was, for he was an ornament of our race, remarkable in everything which can distinguish human nature. In peace and in war, in the arts and the sciences, in eloquence and literature, he had not his peer at that day, has never had his superior from that day to this. He attempted to establish Caesarism in Rome. He met with opposition and lost his life in the attempt. The dagger of Brutus stopped him in his career; but Caesarism was born with him. The first attempt made by him, although he individually failed, went on growing, growing from one thing to another, until a line of Caesars reigned on the throne of Rome for many, many generations. It was a growth. Look back at the history of Augustus. He did not want to be a Caesar at the beginning. He professed to be a lover of liberty, a lover of the people, accepted the consulship with great diffidence, and at one time resigned it because he thought it better that the office should go back to the people that they might elect another person, designing all the time not only to maintain his consulship but to obtain augmented powers, which he did. It went on from one encroachment to another, from one concession of power from the great senate of Rome to him, until he became the absolute individual dictator of Rome and of the whole civilized world.

So it was in England. Cromwell first swayed the destinies of England only because he was the great military hero of that terrible revolution. With that title, merely as the commander of the army of England, he soon became protector by law. He was anxious to become the Caesar of his country, to become king, and gradually, and rapidly too, powers were added to him from day to day, and had he lived he would have been crowned King of England.

But the most remarkable growth of Caesarism perhaps was that in France under the first consulate. Three consuls were elected in France. Neither of them was elected to be first consul. Bonaparte was one, Sieyès, the great constitution-maker of that day, the great Sieyès in the work of making constitutions in that period, was another, and there was a third whose name at this moment does not occur to me. They were elected to be the consuls of France, and as consuls they met to decide what department should be devolved on each one. At the very first meeting Sieyès expected to be chosen the first consul on account of his age, on account of his admitted learning, on account of the fact that he had shown great ability in many legislative assemblies of France and in making constitutions for the whole of Europe; but at that very first meeting Bonaparte was selected. When they adjourned a friend of Sieyès met him as he came out of the room and asked him who was the first consul. "Why," said he, "General Bonaparte is the first consul." "Who is the second?" "Bonaparte." "Who is the third?" "Bonaparte." "Why," said Sieyès, "he knows all, he wants all, he dares all." "Well," said his friend, "what are you and your colleagues?" "*Nous sommes des imbéciles*;" in other words, "we are fools." Caesarism was established. Yet that was a temporary thing. Bonaparte was to be consul only for a very short period of time; but it grew, and in a short time afterward he was made consul for ten years, and in a short time after that he was made consul for life with the right of transmitting the office to his legal heir, and in a very short time it grew and he became the Caesar of his country.

Mr. President, so it will be here in a very short time. Although it pains me to know that a resolution of this kind can be entertained by the Senate of the United States, yet it may be a fortunate thing that it comes at this period of the world. It may be, and I think is the fact, that the people of the United States are not yet prepared to

sanction Caesarism. I know the extent of the dry-rot—if I may use the expression—which pervades a large portion of the people of the United States. I know how they are overcome by the blandishments of power, by the allurements of office, by rewards of various kinds, high official positions, great offices having enormous emoluments. I know that the country is covered over with eighty thousand office-holders, who are all the aiders and abettors of a one-man government if they can maintain their positions. I know it; and this resolution will present to the mind of the people at the very next election this great question: "Are you prepared, citizens of the United States, to sanction the exercise of power by the President of this nation such as is contemplated here? Are you prepared to say that the President has a right to send troops to any State of the Union to influence the organization of its Legislature? Are you prepared to say that it is competent for the Executive of the nation, acting alone on his oath of office, to command and to order the highest officers of this Government to travel over this country to obtain information to be communicated to him individually, regardless of the organization of the Army, making it a mere individual military power? Are you prepared for this?"

Mr. SARGENT. Will my friend allow me to ask him a question?

Mr. BOGY. Certainly.

Mr. SARGENT. I should like to ask the Senator if the same idea, the same argument, was not in the mind of Wilkes Booth when he flourished his bloody dagger on the stage at Ford's Theater and exclaimed "*Sic semper tyrannis*?"

Mr. BOGY. The question of my friend—for I will use that word—from California is altogether a very improper question. The word "impertinent" is not a word which should be used by a Senator. Therefore I cannot use that word, but his question is not pertinent.

Mr. SARGENT. If my friend will allow me a moment, I will say that I understand Booth's objection to the President there slain was that he was a tyrant. His words conveyed that allegation. I wish to know whether the Senator's argument does not go too far in the same direction; if it and his illustrations do not imply the right to remove the ruler who it is assumed tramples on the liberties of the country. That assumption is easily made, and, as it seems, acted upon. But shall each man judge for himself if the liberties of the country are trampled on, and apply the remedy by assassination? That is all I intended, and meant no offense.

Mr. BOGY. The question of the Senator from California is not pertinent; nevertheless I can give it a good answer. First, not having at all any sympathy with Booth on that occasion or at any time, I cannot exactly say what was in his mind. His was the act of an insane man. But this I can say, that the question of my friend from California suggests this idea: that all men in all ages of the world who have aimed at the destruction of the liberties of their country have first impressed upon the mind of the country that their person was in danger and therefore they had to be protected by guards to prevent their person from being assailed. Pisistratus, the tyrant of Athens, was surrounded by an army to prevent his life from being taken from him, and he conquered the liberties of Athens. His life was at no time in danger, but he used it as a mere excuse and became the tyrant of his country.

Sir, such arguments are part and parcel of the idea now dominating this land, that the Executive must be surrounded with extraordinary protection, and that he must be upheld in the exercise of power whether the power that he has exercised be within the limits of the Constitution or not. I say that the home of liberty is not in the executive department; it is in the legislative department; and it would be a great deal better for us to be protected in the discharge of our independent duties than to make any effort to protect the life of the President, without at the same time saying anything which can in any way be construed that I would encourage anything of the character to which the gentleman has alluded.

The tendency of the day is toward executive power. That is my argument. The tendency of the Government is in concentrating all power in the hands of the Executive, and I as an American citizen am profoundly convinced that that tendency, if not checked, will lead to the destruction of the liberties of this land, and that we cannot check it too soon. I do not speak of this as a party man; I speak of it in the higher position of an American citizen. Liberty and the spirit of liberty, freedom and the spirit of freedom, can only be maintained and can only be transmitted through the legislative department of the Government and not through the executive, and whenever the Executive of the people becomes the protector of the people in law, he is the protector in fact and he is in reality their master.

Not very many years ago this question was discussed in this very Chamber. It arose under the administration of General Jackson. Mr. Dnane, Secretary of the Treasury, declined to remove the deposits from the Bank of the United States. He was removed by General Jackson from the office of Secretary of the Treasury and Roger B. Taney, who afterward became the Chief Justice of this country, was put in his place. He obeyed the mandate of the Executive, and that I think is the weakest part in all the history of the great Chief Justice. For doing so the Senate condemned him and passed a resolution condemnatory of the Executive, because it was thought then that there was a great tendency to executive usurpation and the concentration of power in the hands of the Executive.



Mr. SAULSBURY. Will the Senator from Missouri allow me to interpose right there?

Mr. BOGY. Certainly.

Mr. SAULSBURY. The Senator from Missouri has referred to the action of Mr. Taney as Secretary of the Treasury in removing the deposits from the United States Bank, and said that he considers that the weakest point in all the history of the late Chief Justice Taney. I wish to say to the Senator from Missouri that in acting in that manner the late Chief Justice of the United States only acted in accordance with what he believed to be right prior to his becoming Secretary of the Treasury. I believe it is stated in his biography that he had repeatedly urged upon General Jackson the necessity of the removal of the deposits from the United States Bank; so that when he became the Secretary of the Treasury and acted under the order of the President in making that removal he was but carrying out what he had previously urged upon General Jackson as his duty as President of the United States, and I do not join in the intimation of the Senator from Missouri that it was any blur whatever upon the character of the late Chief Justice Taney.

Mr. BOGY. I am much obliged to the Senator from Delaware for this little episode, for I did not desire to be understood as casting any reflection on the life of the late Chief Justice. I would say more: As Attorney-General of the United States he had advised the President that the deposits should be removed, and that were he Secretary of the Treasury he would remove them; but nevertheless he accepted office and removed the deposits and laid himself liable to the censure to which I have alluded. I have no doubt that he acted in accordance with his previous convictions; nevertheless, as it is the duty of the Secretary of the Treasury to report directly to Congress and not to the President—in other words, although he is one of the Cabinet he is supposed to be more the minister of Congress than of the President—it was thought at the time to be yielding to executive dictation beyond that which was believed to be proper at that day. But what then was supposed to be so highly improper and which called from Mr. Clay some of his most eloquent speeches would now be considered as amounting to nothing at all. The powers of the Executive from that day to this have grown so enormously, that an act of that kind would not be noticed at all at this day. That is the objection I have to this resolution; it is sanctioning the tendency of power into the hands of the Executive, while I would like to see a tendency toward the legislative department, I repeat. Not as a party man do I say, but I say it in my higher character of a citizen of this country, that I see with great regret that such is the tendency. No one can doubt that power is rapidly passing from this body to the other end of the avenue, and at the rate that we are going now it will be but a very few years till Congress will be a body without any power, till it will be impotent for good and only potential for mischief; powerless for any good whatsoever, but all powerful for a great amount of mischief.

If it is not the object to strengthen executive power, why is this resolution introduced at all? What motive could have impelled the Senator from Indiana to have introduced the strong and expressive resolution which he introduced on this subject? What motive could have dictated either of the other resolutions but one to sustain the Executive in the exercise of a power which in the estimation of many Senators on this floor he does not possess? The Senator from Vermont, [Mr. EDMUNDS,] one of the leading minds on the other side of the Chamber, speaking upon this subject but a few days ago, denied utterly the power of the Executive on this subject, and yet I presume he will himself vote for this resolution. He has either got to vote for it or against it. If he votes for it, he has to take back that which he said the other day denying to the President all power upon this subject. He said:

But, sir, I will not waste your valuable time in further discussing that question. I am bound to say as a Senator of this body that the attitude of the President of the United States as President upon this subject is absolutely immaterial to me. I know of no clause in the Constitution or in the laws that gives the President of the United States any right whatever—

to interfere in this matter. The Senator from Vermont denied the absolute right of the President; it has been denied by many Senators on that side, and yet we are called upon now to face this thing and to record our votes for it or against it. If you sanction it now, where is it to end? Sir, there will be no end. Power is tending rapidly, rapidly indeed, into the hands of the Executive, and it will be a very short time till he will have all power. He is now commander of the Army, commander of the Navy, having the right to appoint all the sixty or seventy or I believe eighty thousand office-holders of the United States, having the power to remove them and appoint others in their stead, controlling the entire machinery of the Government. All that is needed is a subservient Congress. Let a Congress meet here at a future day that is subservient, and what becomes of the liberties of this country? And will not such a Congress come, if it has not yet come? I do not wish to be understood as saying that it has yet come, but will it not be sure to come if you permit the Executive to have any say-so in the elections of the States? Will he not so arrange it that none will be elected but men of his own way of thinking, and then this great and elected body will have sunk into utter contempt?

I am opposed to it; yet, as I said awhile ago, it may be a fortunate thing that the question is presented at this day to the American people. These resolutions will play an important part in the next presi-

dential election, and the question will be placed before the men of this country whether they are disposed to sanction a rapid accumulation of power in the hands of the Executive or whether they are not. And, sir, mind what I tell you, judging of the future by the past, a storm will sweep over this land the like of which has never yet been seen, and the party, Mr. President, [Mr. MORRILL, of Maine, in the chair,] of which you are so distinguished a member will be placed in the position where my party was placed a few years ago. The democratic party, in a spirit of perfect fidelity to the Constitution, became the pro-slavery party of the nation, because they believed, as I believed, that the institution of African slavery, no matter what might have been its character, was protected by the Constitution as it had been handed down to us by our fathers. Believing it to be a right protected by the Constitution, the democratic party maintained that right and were placed as a party in a position opposed to the great spirit of universal liberty and we could not help ourselves. Your party, sir, mounting the popular cry of universal liberty, the cry of emancipation, created a storm which for the time being swept us from the places of political power and you rode into power. The citizens of the Southern States acting in the same way, acting as they believed in obedience to a right guaranteed to them by the Constitution, attempted to maintain that unfortunate system of slavery in their own way, and they encountered the great popular storm which for the time being annihilated them.

There is in free countries—and thank God that there is and as long as it continues we shall see it—a spirit of liberty, a spirit of love of freedom, which is a part and parcel of the human organization. In all countries indeed, I may say it has existed and it has existed in all ages. The love of freedom, the love of liberty, exists in all animated nature. It is not confined to man. All animated nature seeks and sighs and struggles for freedom for itself. We will occupy the position before this nation that you occupied a few years ago as the party of freedom, when you will be placed where you ought to be placed as the party which sustains despotic power in the hands of one man, and you will not be able to shake off that shirt of Nessus, but you will wear it and wear it, I hope to your political destruction. Such will be the result. This question will go to the people. All over this land, on every hill, on every mountain, in every valley, along every river, from the North to the South, and from the East to the West, will the young men of this country appeal to the people of the Union whether they are in favor of putting all power in the hands of the Executive or not. Such will be the question, and you cannot avoid it.

Mr. President, viewing the question in that light, I am of course opposed to the resolution. I see no good even to the party of which you are a member that can result, but much mischief. What can be your object? What is the secret motive? What do you wish to attain by the passage of this resolution? It sanctions the one-man power and nothing else. What is the argument? Is there not something beyond? Is there not something that we do not see, something hidden, some great object to accomplish? There must be. When a resolution of this kind meets the approbation of a number of men of ability and of experience, men of known statesmanship, there must be a hidden purpose somewhere that we do not know. Why should you desire to strengthen the arm of the Executive? Is it only as a matter of personal compliment to him, soothing to his feelings? You have no power to do it as a Legislature. It is a mere expression of opinion on the part of the Senators on this floor, which at the same time will go far to proclaim to the world that this exercise of executive power is legitimate.

We talk, sir, of the rights of the States. I heard a gentleman speak most ably and most eloquently about "sovereign States" the night before last. Why, sir, what will become of the sovereignty of the States if all power is in the hands of the Executive; and indeed how far are States sovereign at the present day? My friend from Connecticut [Mr. EATON] claims that they were sovereign before they came into the Union, continued to be, and are so now. The Senator from Indiana [Mr. MORTON] and I might say the Senator from Massachusetts [Mr. BOUTWELL] deny the proposition. I say that if the people of the United States sanction the resolution which is presented to this body, there will be no sovereignty left in the States at all, if there be much left now. That the States at one time were sovereign I have no doubt. When the question of citizenship was one left with the States alone, when the United States Government had no citizens, we could not be a nation, because citizenship is essential to nationality. There cannot be a nation without a citizen. It is impossible; it is a simple absurdity. And as there could be no citizens of the United States separate and apart from State citizenship, it was rather difficult to comprehend that there could be such a thing as nationality in this Government. That might have been a matter to be deplored or a matter to be approved; but at the present day the reverse is the fact. Citizenship is created alone by the United States, and the States have no power over the subject at all. Under the fourteenth amendment it is a power which has been wrested from the States and given to the United States, and now there is such a thing as a citizen of the United States independent from a citizen of a State, and it may be that this now is a nation. In my estimation it is, and in my estimation it is a great nation, and my desire is that it shall continue to be not only a great nation but the greatest and the mightiest that has ever existed on the face of



the earth. But, sir, if you concentrate power in the hands of the Executive, your States will not amount to so much as a proconsulship of the Roman Empire. The great State of New York, having within its borders the large city of New York with a population of five millions of people, will not have as much sovereignty as the little kingdom of Hawaii has to-day. It would have no sovereignty at all, having no power, the President having the right to control its Legislature; for if he has a right in Louisiana he has in New York. Louisiana is as much a State as New York, or Vermont, or Maine, or any other State; and if he has a right to control a Legislature in the State of Louisiana and thereby shape the election of Senators, he has the same right in New York and in your own State, and the day will come when that right will be exercised, and then what becomes of your State sovereignty? It is now in my estimation—and I am very sorry to say it—but a very feeble sovereignty. I regret it, for I believe that the long duration of this Government, the security for freedom, the security for liberty, the security for all those great principles that form freedom and liberty, depends on securing to the States of the Union sovereign powers within the limits of the Constitution, or making them sovereign on their own territory at home without the power of the President to control them at all excepting in those matters which have been expressly delegated to the Government or which follow by necessary implication. But with an overgrown Executive at the head of the Army and the Navy and with the appointing power, all power has passed from the States, all power has passed from Congress, and all power is lodged in one man, and that is what in modern times is called Caesarism, imperial power.

Sir, I call upon the Senate of the United States not to encourage such a tendency, to check it now; keep the power here and in the other House; keep the power where the States can exercise it through their Senators and the people through their members of the lower House; keep it there, and as long as you do that this Government will go on fulfilling its high mission; but put it in the hands of your Executive and its days are numbered and they will not be many.

Sir, I did not rise for the purpose of making a speech in regard to myself or for the purpose of indulging in declamation. I felt it to be my duty as a Senator, as a citizen of this country, to raise my feeble voice as a voice of warning upon this most important subject. Let us stop now. Let us stop where we are. Let us not encourage this tendency, which we all know is fact increasing from day to day. Let us stop it; and if we do that we shall have done more to perpetuate liberty and freedom than has been done in this country for many years.

Mr. President, I regret that I have detained you so long, and without further remarks I yield the floor.

Mr. WITHERS. Mr. President, with very limited legislative experience, all unused to discussions before so grave a deliberative body as this, all the experience I have had in the discussion of questions of state-craft being that derived from the rude assemblages of the hustings, I appear with great deference and with a profound feeling of distrust in my capacity properly to discharge the duties incident to my position, and attempt to discuss a question which has already been worn threadbare by the concentrated analyses of minds matured by legal experience, by enlarged statesmanship, and by thorough knowledge of the subject. I know that it would be presumptuous in me to suppose that I can say anything new upon a subject already so thoroughly discussed. But, Mr. President, when I remember that I stand here as the representative of one of the old thirteen States which originally composed this Union; a State which I undertake to say contributed as much to the construction of this Government as any other; a State which in times past has wielded as much influence upon the policy of this Government as any other; a State whose sages, whose soldiers, and whose statesmen surrounded the very cradle of our national existence and with firm hand steadied the reeling pillars of that infant State and fixed them on the firm basis of a free constitution; a State whose sons have ever been found first and foremost in defense of those great principles of constitutional liberty which underlie the foundation of our Government, I may well claim for that State a right to be heard on an occasion such as this, when the fundamental principles of republican liberty are assailed and when it seems to be the fixed purpose of the majority to establish a precedent which will forever break down the distinctive features of this National Government and establish upon its ruins a consolidated despotism.

If in the progress of this discussion I shall in any way transgress the rules which custom has decreed in the consideration of matters before this body I beg in advance to apologize therefor and to say that it is not my purpose in any sentiment that I utter, in any expression that I use, to derogate in the slightest degree from the dignity of this body or in any way to lower the high prestige of a body composed of the conscript fathers of this Republic.

In commencing my discussion of the resolution now pending I feel impelled to concur in the sentiment announced by several who have preceded me on this side of the question, and to deny utterly the power of the Senate to consider in executive session a measure so fraught with the most important interests, but utterly foreign to the business which we have been convened to consider; and while I do not presume to question the correctness under the rules of the Senate of the decision of our Presiding Officer in declaring that the question of admissibility could not be entertained by the Chair after a resolution is once introduced into this body, I yet must express my

regret that when called in executive session the Senate should have transcended what I conceive to be the legitimate limits of the business in which it can properly engage to engage in the consideration of matters such as this.

By the introduction and passage of these resolutions we propose in advance to express an opinion and commit the Senate to the indorsement of the acts of the Executive in a manner which might hereafter embarrass and impede our action. Remember that under the Constitution the Senate in some cases becomes a court of last resort, whose duty it is to try and decide all allegations made of maladministration of power in the hands of the Executive. Whether the case under consideration be one which might properly be regarded as coming within this rule it is not for me to say; but the effect of acting upon the subject will be to establish a precedent which, if not in this, yet in some future case, may debar us from the proper exercise of those judicial functions which may devolve upon us. This I conceive to be a valid objection to the passage of such a resolution as this now pending.

The history of this measure is fraught with instruction. If public reports be true, and I have no disposition to question them, it has been carefully considered day after day in a party caucus and with much difficulty have conflicting views been harmonized. Something objectionable must have been embodied in the resolutions, some serious defect, either in the mode in which they were drawn or in principles to which they commit the majority, must have existed to require such mature and repeated deliberations before it was thought proper to lay them before this body; yet when they come before us the distinguished gentleman who presented the substitute now under consideration indicated a purpose to act upon it at once, without discussion upon that side of the Chamber, declaring in few words that argument on both sides was exhausted, that it had been debated for such a length of time that nothing new remained to be said upon it, and therefore he saw no motive, no reason, no object for more prolonged debate.

It appears to me that it would have been both opportune and appropriate had this distinguished Senator, or some other who approves the resolution, indicated to the Senate some of those reasons which proved sufficiently potent to induce them to abandon the views previously enunciated in this body, to recede from their refusal to indorse the acts of the Kellogg and Pinchback government of Louisiana and consent to an indorsement of every act done by the Executive in defense and maintenance of that government. It will be remembered that it was urged here during the discussion of the Pinchback resolution by several distinguished Senators of the majority that that government was a monstrous usurpation, that it had no legal existence, and consequently the applicant who had knocked so loudly at the doors of this Senate Chamber was rejected, or, what was tantamount to a rejection, his case was relegated to December next for further consideration. I assume, therefore, that some most cogent argument must have been used with Senators who thus refused to indorse the resolution for the admission of Pinchback to induce them to approve this resolution, which is based upon a recognition of the validity of the very government that sent Pinchback here.

Sir, I would have been pleased had it comported with their sense of propriety to have been enlightened on these subjects. I should have been pleased to know why it is that the President is thus fully, completely indorsed in his recognition of a government which distinguished Senators on this floor have on more than one occasion pronounced to be a usurpation and a fraud and no legal government at all. We were told during the discussion of the first resolution presented by the distinguished Senator from Indiana, [Mr. MORTON,] by that Senator and by several others who participated in the debate, that it was absolutely essential to the peace and prosperity of this country, for the preservation of good order in Louisiana, for the protection of life and property in that State, and for the vindication of the sovereignty of that State, that the question should be decided here and now; that Louisiana should no longer be permitted to remain with but one representative upon this floor; that the condition of chaos and confusion which existed there should be rectified by the fiat of this Senate; and one distinguished gentleman [Mr. LOGAN] went so far as to say that we ought, of necessity and propriety, to recognize either the one or the other of the claimants of a seat in the Senate from the State of Louisiana. He told us if we would not admit Pinchback we ought to admit McMillen and settle this vexed question, put an end to the confusion. Senators declared all this to be a necessity, and called upon us, by our sense of propriety, by our duty as Senators, by our patriotism, by our regard for the peace and safety and happiness of the people of Louisiana, to pronounce a decision. Yet when the time came and the vote was about to be taken which would decide this tremendous issue, a Senator [Mr. WEST] rose in his place, simply stating that because the party appeared not to be united in opinion, therefore all these grave considerations must be "whistled down the wind," and Pinchback's case postponed until December next, leaving these momentous issues all unsettled, these terrible dangers still imminent, these sacred rights yet undivided, lest forsooth the interests of the party might be jeopardized.

And here I take occasion to give expression to my full appreciation of all the high qualities of a parliamentary leader as exhibited by the distinguished Senator from Indiana [Mr. MORTON] during the prog-



ress of this discussion. Cool, watchful, and determined, with a clear and logical intellect which enables him to grasp at once the strong point of every question that is presented, of indomitable will, with a heart unquailing and a hand unflinching, he is prompt at all times to enforce party discipline whenever necessary. Wielding the whip of his party with relentless hand he lashes into subservience many who seem at first disposed to be a little recalcitrant. His action assimilates so closely those to which I have often been a witness, that I feel impelled to run the parallel, albeit a little out of place in this Chamber, but which I hope will be pardoned in consideration of the partialities of a distinguished official, not very remotely connected with this subject. So have I seen the skillful driver of a restive team, composed of horses of different tempers and different dispositions, when he comes to the pinch of the hill, find it necessary to wield with relentless hand the whip and lash the sluggish horses into obedience. The Conestogas respond promptly to the whip, but if there should be in that team any high-mettled thorough-bred the touch of the lash rouses him to resistance and he indignantly refuses to obey the demand of his driver; he rears, plunges, and finally "kicks out of the traces." Under such circumstances what does a good driver do? Precisely what was done in the instance before us. He no longer plies the lash, but substitutes the soothing process; he coaxes him with honeyed words; he pats him on the back, calls him a "good fellow," coaxes him into good humor, and when his docility is thus restored, at the word he presses forward and the obstruction is overcome.

But let us return to the consideration of the resolution now pending. Modified as it has been from the form in which it was originally presented, it still retains substantially the same elements in its composition. I do not, for example, see the advantage of the substitute offered by the distinguished Senator from Rhode Island for the original resolution inasmuch as it differs from it only in striking out that portion which authorizes the President to continue to recognize in the State of Louisiana the existing State government. If the existing State government be the lawful government, if it be the true government of that State, if the Executive has done nothing but what is right and proper in recognizing and sustaining it, what objection can there be to pledge in advance the support of the Senate in his future recognition of that government? I repeat therefore that I cannot see a substantial difference between the amendment which has been offered and the original resolution, but I have no doubt it is perfectly right and proper; only the distinguished gentleman who moved it has not thought proper to enlighten us as to what was desired to be accomplished thereby.

It has been intimated that this resolution has not the force of law, that it is a mere *placebo*, which the Chief Executive of this nation is anxious to have passed that his action in this respect may be indorsed by the Senate, as it has been already approved by the House of Representatives. Well, sir, I do not regard the resolution in that light. It is true that it is no specific enactment; it is true that it is a mere expression of the opinion of the Senate, which may be well assimilated, as has been done, to the action of a popular assembly or a political convention; but, my word for it, there is somebody behind the scene who is sufficiently astute to know that such action by the Senate means something, and if it be carried out it will bear fruit and such fruit probably as many of the gentlemen who now favor it will be sorry to see ripen.

The passage of this resolution is the indorsation of an act which those of us who have been trained in a stricter rule of constitutional construction than is now fashionable cannot admit was justified by the Constitution or the law. In fact, I regard the introduction of this resolution an admission that the acts which are here alluded to were not done in consonance with the Constitution or the laws of this country. I believe this to be the legitimate and logical deduction to be drawn from the introduction of the resolutions themselves. When before was it ever thought necessary in executive session to solicit the approval of the Senate of the United States of any act of the President which was performed in strict and known accordance with the Constitution and the laws? Never, so far as my knowledge of the action of this body extends. The necessity of this indorsation then, I repeat, implies the admission that those acts need indorsation, that they are in violation of the Constitution or of the laws of this country, and consequently should never receive the approval of this body.

I know that in many of the years which have passed—sad years to some of us—violations of the Constitution have been not infrequent. I know that its most sacred provisions have been ignored and trampled under foot on more than one occasion. I know that the reasons alleged in justification of these violations were evidently potent at the time, namely, that the safety of the nation and the "life of the nation" demanded that these constitutional restrictions and inhibitions should be ignored. It boots not now to discuss or deny this. But surely no such reason exists at present; surely no one can now assert that "the life of the nation" or the public weal would be in any way imperiled by refusing to give the sanction of this Senate to these acts of the President constituting such a wanton exercise of what we believe to be usurped power on the part of the Executive. I do not see that a single interest of the country would be damaged by our refusal; I do not see that any good can be effected by their passage. On the contrary I see that the precedent, once established, may become most potent for evil, and such I conscientiously and truly believe will be the effect of the indorsation by the Senate of these acts

on the part of the Executive; and gentlemen who now press them upon us with such unyielding determination may find to their cost that, "like curses and chickens, they will ultimately come home to roost."

When we look at the various steps in this direction which have been taken by the Chief Executive of this Government during his incumbency in office, if we fail to see in them a fixed determination to exert, if not to usurp—I do not like to use a harsh term—but to exert and exercise powers not delegated by the Constitution, we must be dull scholars indeed. Trace his history from the time of his first assuming the presidential chair to the present moment, and you will find that repeated acts of aggression upon the other departments of the Government have marked his executive career. We find that time and again has he exercised powers and wielded authorities which were not delegated to him by the Constitution and the laws. In Alabama, in Mississippi, in Louisiana, in Arkansas, in Tennessee, has military usurped the place of civil law under the orders of the Executive, public rights and private liberties have fallen prostrate at the feet of arbitrary power, and the most sacred provisions of the Constitution been ignored and defied. Legislative assemblies have been constituted and destroyed without regard to the voice or wishes of the people. Governors have been made and unmade by the fiat of the Executive. Property, liberty, and life, no longer confiding in the protection of the Constitution, have been held by the frail tenure of the prejudice or caprice of a military commander, and now we are asked to ratify and indorse these acts.

Still more recently we find that he has asked for powers and petitioned the Congress to grant authority which, if conferred, would sweep from existence the most cherished provisions of our laws, and leave us a Constitution that would not be worth the snap of a finger. Fortunately for the country this "force bill" failed to become a law, but the fact remains no less startling and significant that the President anxiously desired to be clothed with these powers, which would have made him master of the situation in the coming presidential election, and enabled him to control and determine the electoral vote in four of the Southern States. Pass this resolution, and the President of the United States may very well hereafter assert and exercise the same powers which have proved so potent in Louisiana in any other State in this Union, and plead in extenuation and excuse that he has the authority and indorsation of both Houses of Congress for the act. Remember that the sole pretext on which his action in Louisiana is based is that it was necessary to preserve the public peace and protect the State from domestic violence. Is there any evidence to sustain the allegation? I have listened and looked in vain for it. On the contrary, nothing had occurred in this case but what had occurred repeatedly before in the history of this country—a division of sentiment on the part of the people as to who was the legally-elected governor and Legislature of the State of Louisiana. Threats of violence and possibility of collision may have existed; but there were no scenes of actual violence, so far as I am advised, at the time the armed minions of a military President marched through the halls of the Louisiana Legislature and hurled from their seats men who claimed to be elected by the people at an election held in accordance with law, and which we have the authority of a congressional committee composed of republicans in believing were thus legally elected and entitled to their seats. The claim of a usurping governor, holding his seat by the fiat of a Federal judge, whose decision was not had in accordance with law but in direct violation thereof, constituted the sole ground for this military interference.

I ask you, Mr. President, where is the State in which the same scene cannot be repeated, especially if you give it the stamp of your approval? Assuming for the sake of the argument that there shall ever be an Executive (whether this or some future Executive) who desired to concentrate in his own hands all the powers of the legislative and executive departments, to become absolute and supreme in his authority, what would be easier than for such a person, through his myrmidons and agents who were willing to follow out his wishes and aid him in compassing his designs, to simulate a rebellion in any State, and calling upon the Executive to sustain their action, substitute military for civil authority, or inaugurate into power officials notoriously not elected by the people but such as he knew would carry out his own purposes and wishes in defiance of all constitution and all law, thereby wiping out of existence the constitution of the State itself and every right and liberty which the people of that State possess. Nay, more, sir, we may go further; we may assume that at some future period in the history of this country, when a contest has been waged for the executive chair in some future presidential election, the *fiat* of the people may have been pronounced for or against the incumbent of the presidential chair; and if against him, anxious to perpetuate his power, unwilling to surrender the reins of that government which he had so long held, may seize on some pretext, however trivial, to enable him to use the same appliances that were brought to bear in the State of Louisiana and upon the national theater play the game which was successfully enacted there.

I know Senators smile in derision at these suggestions. I know they scorn any intimation of danger coming from that source and view as the fancy of a distempered brain any allegation that the laws and institutions of this country are in the slightest danger from



any action of the present Executive. I do not charge it, but I do say that the indorsement of these acts would pave the way for such usurpations on the part of this or some future Executive and which would be fatal to the most cherished institutions of this country.

It is not my purpose to weary the Senate, and I have no idea therefore of going into an elaborate review of all the history of this Louisiana case. I shall not parade again before you the facts which have so often been demonstrated here as existing in the history of this Louisiana matter. I shall not go into an elaboration or presentation again of the facts which prove the illegality of the government which the President by the aid of his military power established in Louisiana. I shall not pretend to assert again and again the proofs of the usurpation which was practiced there by a governor who, under the influence of the returning board which was unauthorized by the constitution, declared his minions alone entitled to power. I shall not again review the judicial decisions upon this question. Able, learned, and distinguished lawyers have differed as to some of the points which are involved in this controversy; but none, so far as I have heard, have ever asserted on this floor that under any aspect of the question was this Kellogg legislature the true and constitutionally elected Legislature of the State of Louisiana. Why then should you indorse the action of the President recognizing as valid and legal a governor and a Legislature which have been time and again determined to have been illegally placed in power and never to have been elected, a governor who could not show a semblance of a return which would justify any board in giving him a commission?

The action of the Executive in sending down to the State of Louisiana a distinguished military officer must have in it something of peculiar significance when we recall the fact that he was selected from a large roll of officers as one specially fitted for the execution of this particular duty. One would have supposed, if it were designed simply to employ the military in aid of the civil power there to suppress rebellion or to keep the peace, that the military commandant of the particular division in which the disturbance was alleged to exist would have been selected to perform this duty, but in this case we find it far otherwise. An officer is taken from a distant post; he is notified in advance by the Secretary of War and not through the usual channel of communication, through his military superior, of the duty that was to be delegated to him. The very object and end of his mission was sought to be concealed by notifying him in advance that on this mission he had better assume that it was a mere private trip for pleasure and that it did not mean anything more. When this officer reaches the theater of his action, we find that violent scenes were at once inaugurated, that the whole military power of the Government was at once enlisted upon the side of Kellogg, and that the military has as literally and as truly driven from the halls of legislation in Louisiana men who had been duly elected by the suffrages of the people to their places in that body, as did the troops of Cromwell or Napoleon drive from the Parliament of England and from the Assembly of France the legislators assembled in deliberation in their day.

Instantly this officer seeks first from Congress and subsequently from the President that he may be invested with yet larger powers. Not content with usurping all the authority of the Legislature and of the governor by putting in only those who were committed to carry out their views, it is proposed that by the simple declaration that the people of Louisiana are banditti they may be turned over to the tender mercies of military courts-martial, with full authority to sit and try and condemn and execute any citizens between the rising and the setting of the sun. That is what was asked. Does any one suppose for a moment that there was no concert of action here, no understanding; that there was not a belief on the part of one if not both of the parties in this drama that such might be the result of this mission? I cannot know, no one can, but I think the circumstances that surround it justify the assumption that such was the course that was expected to be pursued, and that thus by this summary measure all opposition to the Kellogg government and to the administration of General Grant would be crushed out in the blood of its opponents in Louisiana. The telegrams which passed between these high officials exhibit a history which will yet be told in such words as will raise such a storm of indignation from one end of this great country to the other, from the Pacific to the Atlantic, and from the snows of Maine to the torrid clime of Texas, that those who justify and defend this action will cower and shrink from the consequences of their act. The purposes so thinly concealed in the telegrams that passed between these parties on that occasion flashed notes of warning that will yet be heard and I believe chronicled with such public reprobation of the acts proposed to be there enacted as will forever preclude a repetition, even by military gentlemen "not lawyers."

The disorders, the scenes of violence which have been here time and again recapitulated, are plead as excuses and reasons for this military interference, and this distinguished military leader with hot haste forwarded what purported to be a list of some three or four or five thousand men who have been murdered in Louisiana because of their political opinions. I have been looking over a little of the evidence in this case, for I was myself struck with horror at the alleged outrages described. I could not believe it possible that such scenes had been enacted and that so many acts of violence had been committed. I know and am ready to admit that many places throughout the South, ay, and throughout the North too, have witnessed scenes of violence; but I

cannot believe one-half or one-tenth of the acts of violence alleged to have been committed in Louisiana or in any other southern State. In looking over the testimony presented with one of the official reports, my attention was directed especially to one parish—I do not recall the name at present as it is not important, and it lies on the table and can be referred to—in which it was alleged that nearly two hundred murders had been committed since 1868. I found there was the testimony of one sole witness to the fact, he averring that he had kept a record since 1868 of every murder that had been committed in that parish and that they amounted to so many; but when he was requested to produce his record, lo, it presented the names of twelve men specified, and the rest filled up in blank—no name, no place, no time indicated whatever, and he admitted that he had no knowledge on the subject except that he had been told that such was the case. The twelve names were subsequently brought before him consecutively in review, and after sifting him through the process of a rigid cross-examination it appeared that of his own knowledge he knew of two instances only in which men had been killed in that parish. The number of one hundred and eighty assassinations was reduced to two. The great dramatist of England has immortalized a scene in which certain men in buckram played a very important part; but not the genius of Shakespeare himself ever devised such a picture as that presented to that committee when they found that one hundred and eighty murdered ghosts by this process of elimination were reduced to two. *Ex uno disce omnes!*

I have no hesitation in asserting that most of the acts of violence which have been committed in the Southern States have been the result of private feuds, because it is demonstrated by the evidence which was taken by your own committee and by the committee of the other House that they were generally instances of murders of black men by black men or of white men by white men, in which politics played not the slightest part. They were private feuds gotten up to avenge private wrongs, or sudden quarrels, the result of accident or other cause, which led to these acts of lawless violence which I and those who act with me deprecate as much as any gentleman of the majority on the other side. But, sir, if acts of violence and of lawlessness justify an interference by the military authorities of the United States in the civil affairs of any State, why is it that we do not hear of some such interference where other States are concerned? Within the last week I have observed in the public journals the statement that a certain number of negroes have been assaulted and driven from their labor in the neighboring State of Ohio. Miners engaged in a peaceful occupation, laboring for their own subsistence, have been driven from their labor by armed and organized bands of white men, for no other reason than that they were black men and the whites did not mean that they should work in the mines. Did we hear of troops being ordered there? Has Sheridan or any military officer been ordered to assume command of the department north of the Ohio and see that the laws are faithfully executed and that violence and bloodshed are suppressed there? Do we hear of any telegram from that quarter, asking the Executive to proclaim as outlaws the people of Ohio because of these acts of violence? Yet here "the wards of the nation" themselves were the subjects of violence at the hands of white men, a distinction was drawn against them in consequence of their "race, color, or previous condition," and I have never heard that it has been prosecuted as a violation of the civil-rights bill. Now it seems to me a "bad rule that will not work both ways."

Mr. President, if I were to regard this question from a mere partisan stand-point, I should not regret the introduction and passage of these resolutions here. I do not pretend to question in any degree the astuteness and skill of the leaders of the majority on this floor. I presume they know what they are about. I know that they are fully informed, in their opinion, as to what the consequence of this action will be. But from the stand-point I occupy, I say as a partisan I cannot express regret at the action which is proposed to be taken and which I have no doubt will be taken in defiance of everything that can be said by the minority on this floor. But my opposition grows out of the fact that I am not willing to surrender for mere party advantages—for I believe this will insure to us that party advantage—a principle which I believe is so fraught with danger to the very foundation-stones of the Government on which we now stand. I believe, sir, when this question is submitted to the people themselves, when we go before them, that court of last resort to decide this question, we shall have a verdict which will satisfy both them and us.

I am glad, therefore, that this issue is to go before them in this shape. I am glad that an act in such flagrant violation of the Constitution and of the small remnant of rights that are yet reserved to the States will be brought before the whole people of this nation for decision. I am glad that the fight in the next presidential contest is to be narrowed down to so sharp an edge. I am glad to know that this nation will be called upon to decide then without complications, without side issues, without any disturbing influences, without questions of human slavery or human liberty, without tales of riot or bloodshed or murder, without any of these extraneous considerations which might tend to obscure the real question at issue; but the people will decide for themselves whether there are any rights reserved to the States which the General Government is bound to respect.

I do not fear the verdict of the people on such an issue. I know that if I were to draw my deductions from the lessons of past history



I should pause and perhaps doubt the correctness of my prediction or feel full confidence in the position which I have asserted. I know that when we look back to the history of all other great republics which have existed from time immemorial that one and all of them have traveled the same road which we are now pursuing. Each and every one of them, without a single solitary exception, has found its fate in the usurpation and consequent aggregation of political power in the hands of the executive and at the expense of the legislative and judicial departments of the government. I know therefore that if I were to draw my lessons from history I would not be warranted in making the assumptions which I do now make; but I hope better things of this Anglo-Saxon race and that they may prove an exception to this historic rule. I believe that love for the principles of constitutional liberty and republican government is so deeply embedded in the hearts of the people of this great country from one end of it to the other that they will rise in indignant reprobation at the effort to wrest these powers from them and vest them in the hands of an ambitious Executive. I look forward, therefore, with hope to the verdict of this grand jury of the nation.

When venality, when corruption, when usurpation mark the career of any President or of any Congress, of any legislative department, or of the legislative, executive, and judicial department of the Government combined, when the strong hand of military power is invoked to decide questions which should only be decided in judicial courts, when the united power of an Army and a Navy and eighty thousand office-holders can be wielded as a unit by the Executive of any country, I tell you that country is in danger and her institutions can only be rescued by a general upheaval and uprising of the people, who will assert their supremacy and their sovereignty in the premises.

Whatever may be said of State sovereignty and national sovereignty, (I do not now propose to discuss them,) none will deny that power has its origin in the hands of the people and that they alone can wield sovereign power. Their will is superior to that of States or nationalities, and when they choose, according to the principles of our own legislators, of our own forefathers, they can alter the Government or they can retain it in the form in which it best pleases them. I believe that such will be the verdict of the people at the next election. I believe that when they are again called upon to decide, the contest, narrowed down as it will be at that time to one point, whether the principles of the Constitution shall be maintained, whether republican government shall be preserved, or whether the Executive shall usurp and wield all the powers properly devolving upon both the legislative and the judicial department of the Government, the people will be true to themselves, true to the institutions of their fathers, and render such a verdict as will forever estop all further efforts at the aggrandizement of the executive at the expense of the other departments of the Government.

Mr. RANDOLPH. Mr. President, if I had not thought before of addressing the Senate on the Louisiana question the fact that one of my own political party [Mr. McCREERY] now occupies the chair, which I expect to see occupied permanently by one of my own political faith in the near future, would be an inducement to me to begin remarks which will probably not consume thirty minutes of the time of the Senate. Perhaps this information will keep the galleries from being cleared and contribute to maintain a quorum on the floor.

There is another reason why I speak on this subject to-day; I should not like to go down to history as the single member of this body holding my political views who had not entered his protest against the Federal action in Louisiana.

Sir, I desire to ask if it is competent for this body, sitting in extraordinary session, to pass a resolution of this character if even by implication it is of a legislative nature? We have during the present session decided that very question and decided it in the negative. If, then, we are not competent to pass upon questions of a legislative character at this session, and if this resolution has no other force or effect than the expression of the opinion of individuals aggregated, why should my friend the Senator from Rhode Island [Mr. ANTHONY] have introduced a resolution that has detained the Senate these many days, the object of which perhaps could have been as well attained if he had attached the signatures of the members who are in political accord with him to a copy of the resolution under consideration?

If the resolution has more of force and effect than that to which I have alluded, if it has something more of effect than the mere expression of individual opinion aggregated, from whence is the authority derived? The House of Representatives at its recent session passed a resolution similar in character to the resolution now pending. That was not a joint resolution; it was not even a concurrent resolution; it was, as this purports to be, a mere expression of opinion of a certain number of members of a legislative body. Is the present resolution when passed to be attached to the resolution which passed the House of Representatives and both to have effect as the joint action of Congress? Are the two resolutions to be lovingly laid side by side, and when indorsed by the executive act and christened by the executive hand are they to be known to us hereafter as "law and authority?" Is that the object of these disjointed resolutions?

Why pass upon any resolution of approval? If the President of the United States has performed his duty, then his own conscience, like that of any executive officer, is the best approval he can obtain,

and no number of resolutions passed by this or any other body will avail to help him if the public conscience be against him.

Does not the introduction of this resolution raise a question, does it not arouse a suspicion, that the gentlemen on the other side of the Chamber are not sure themselves about the propriety and legality of the President's action in Louisiana? We of the opposition have presented no formal resolution of condemnation. By no formal resolution of condemnation have we aroused this discussion. They who support the Executive have begged the question. They and not we have made the President an object of vindication and under the circumstances necessarily of attack? It is true that in speeches the gentlemen who are in accord with me in political opinion have entered their protest against the wrong, the usurpation, and what we believe to be the outrages inflicted upon the people of Louisiana; but, sir, we have been willing to let the whole question go to the American people and receive their condemnation, as our own, upon the Executive acts in Louisiana.

Does the approval of the President's acts include those of his agents? Is there any escape from the answer to this question? The retention of Durell in power; the use of the military force in removing members of the Legislature; the appointment and retention of Casey and Packard; the appointment of Sheridan as military commander, are presidential acts that we are called upon by the terms of this resolution to indorse and approve.

Sir, do I understand that a majority of the members of this body are ready to indorse and approve all the President's acts in Louisiana? If not, which are to be approved and which omitted? The resolution makes no distinction, has no reservations. Do I understand that the gentlemen on the other side of the Chamber who have objected, as we know some of them have, to the acts of usurpation, of wrong, of illegality in Louisiana, are now willing to give their sanction to this resolution, covering as it does all these acts and others no less objectionable? It has been said that there is no instance upon record of the Senate approving in advance the executive desires. You propose to "advise and consent" to what? Substantially we are to "advise and consent" to consummate acts; nay more, by the very terms of the resolution not only do we practically advise and consent to all that has been done in Louisiana, but if we pass this resolution we are to sanction all which may hereafter be done by the President in Louisiana matters. Sir, can subserviency go further than this?

Nor does the dangerous precedent halt in its effects within the limits of ascertained and defined power. These approving resolutions of the House of Representatives and of the Senate of the United States giving to the present Executive all the color of authority have none of the restraints which a decent respect for public opinion has ever thrown about even the worst of laws.

I am forced, by every process of reasoning that I am capable of, to believe what I certainly dislike to believe, that there lies behind the effort to pass this resolution some hidden reason, some concealed motive, the full effect of which we cannot now perceive, but which when fully revealed to us it may discover purposes too late to control.

Can we as Senators, holding as we do peculiar relations to the executive department of the Government, appropriately commit ourselves to resolutions either of full approval or even of condemnation of the President's acts in Louisiana? Have we the right to commit ourselves at this stage of the proceedings?

Let me suppose a case, one that I am free to say I do not think is likely to occur, and one I hope that will not occur, and yet a case that is entirely within the bounds of possibility. Should the next House of Representatives when it convenes in December next, acting upon its well known authority, prefer charges against the President of the United States and impeach him for misconduct in office, I should like to know what position we, who would then be his lawful and only judges in a court of impeachment, would occupy on those charges coming from the House of Representatives? Is it expedient, is it dignified, and do we maintain our self-respect and our proper position as members of a co-ordinate branch of the Government in committing ourselves in advance to an approval of conduct upon which we may hereafter have to sit in judgment? I do not say that I desire any such result to come. I am one of those who would rather trust to the good sense, to the patriotism, and to the certain and unerring judgment of the great majority of the American people than to resort except in extreme cases to the power of impeachment. But, sir, of the expediency of that primary action we are not to be the judges, and what the House of Representatives may do at its next session is not for us to discuss at this time. Our duty will be best fulfilled if, as judges, we hold ourselves ready to perform it when the occasion arises.

Mr. President, the resolution under consideration, like the resolution that was offered by my colleague, [Mr. FRELINGHUYSEN,] if liberally interpreted, might read about in this way: "That the people of the State of New Jersey and of all the other States save Louisiana agree to bear with Christian fortitude and humble resignation the wrongs and the sufferings that have been or may hereafter be inflicted upon the State of Louisiana." If my colleague and myself should upon returning to the capital of the State we love so well, a State that has honored us both so frequently, find in the executive



chair a person from the State of Illinois, a stranger unknown to us and most unfavorably known to those who knew him best, and if we should find in the chair of the president of our State senate a Chinaman or a Malay, and if we found in our legislative halls, where we had been accustomed to see our reputable citizens, men who had been picked up among the scavengers in the cities of New York and Philadelphia, would he and I deem it a matter of praise and of thanksgiving? And if we found our Federal judges and our United States marshals not only strangers to us but men whose deeds by day rendered justice a mockery and whose acts by night blackened infamy itself, would we thank God that we lived under such a government? If, turning to our local officers, we found our county, our city, and our township offices filled with men not only strangers to ourselves, but hard, cruel, thieving, rapacious rulers, would we deem it a cause of personal congratulation, or would we deem it necessary that the American Senate should go out of its way to render pious thanks for such a monstrous condition of affairs in our old Commonwealth?

Mr. President, I do not believe the power of the Federal Government has been rightfully or righteously exercised in Louisiana for two years past; I do not believe that her rulers are those of her choice, that her representatives are those of her selection, that her laws are those of her making. I do believe that fraud and oppression have naturally wrought out wrong and cruelty. And now, sir, we are asked to give peace to Louisiana by commending her despoiler; we are asked to give her protection by placing manacles upon her limbs and laying her prostrate before her enemies. As a Jerseyman, loving the liberties which are mine, and which I wish all human kind to enjoy with me, I shall not indorse acts which I believe to have been foul wrongs upon the people of a State, generous, hospitable, warm-hearted, and patriotic, and I enter my protest against the approval about to be given by this resolution.

Mr. WHYTE. Mr. President, I agree with the Senator from New Jersey that no resolution of the character now under consideration ought to be adopted by this body; but as it seems to be the determination of the majority to pass such a resolution, I deem it proper to place before the country the specific acts of the President of the United States which the ambiguous language of the resolution offered by the Senator from Rhode Island seems to approve. I therefore propose the following amendment to the amendment of the Senator from Rhode Island: Strike out all after the word "President," in the first line of the amendment, and insert:

In the use of the Army of the United States to enforce the unwarrantable, *ex parte*, and private order of Judge Durell, issued on the 5th of December, 1873, directing the marshal to seize the building occupied as a State-house for the assembling of the Legislature of Louisiana; in installing and upholding as the executive of the government of that State William P. Kellogg, who was not elected to that office by the people of Louisiana; in forcibly reinstating the said Kellogg in the said office of governor after he had surrendered possession of the same; in permitting without censure or rebuke United States soldiers to invade the hall of the house of representatives of Louisiana and to eject therefrom persons claiming to be members thereof, and thus destroying the organization of that body, is contrary to the spirit of republican institutions, and cannot be approved by the Senate of the United States.

The PRESIDING OFFICER. (Mr. McCREERY in the chair.) Is the Senate ready for the question?

Mr. THURMAN. If no one is prepared to speak this afternoon I have a suggestion to make. Is the Senator from Maryland disposed to speak?

Mr. WHYTE. No, sir.

Mr. JONES, of Florida, rose.

Mr. THURMAN. Does the Senator from Florida rise to speak?

Mr. JONES, of Florida. Yes, sir.

The PRESIDENT *pro tempore*. The Senator from Florida.

Mr. JONES, of Florida. Mr. President—

Mr. THURMAN. Would the Senator from Florida prefer to speak this evening or in the morning?

Mr. JONES, of Florida. I should prefer to speak to-morrow.

Mr. THURMAN. I think every one must perceive that we shall soon come to a vote on this matter, and I believe we shall come to it sooner by pursuing the ordinary course of business in the Senate. I hope, therefore, it will be agreeable to Senators to adjourn now; and unless there is serious objection to that, I hope a motion to adjourn will be made from the other side of the Chamber.

Mr. ANTHONY. I have consulted with our friends on this side of the Chamber and our friends on the other side, *nos amis les ennemis*, and I understand that there is no probability that there will be more than about two speeches on the other side. Whether the Senators on this side will deem it necessary to make any reply to the very extraordinary speeches which we have heard upon the other side I am not advised; but I have an expectation, and I may say more than an expectation, founded upon representations made to me, that if we adjourn now we shall have the vote at a reasonable hour to-morrow; and so far as I am concerned I will assent to an adjournment, but with the understanding and giving notice that to-morrow I shall ask the friends of this resolution to remain here until it is disposed of. From all I learn on both sides of the Chamber I have no reason to doubt that it can be disposed of at an early hour; but at all events I wish to give notice that to-morrow I shall ask the Senate to remain until the question is finally disposed of. With that notice, I have no objection to an adjournment if Senators desire one.

Mr. SARGENT. We had better have an executive session.

Mr. ANTHONY. As you please.

Mr. WHYTE. Before the question is put, I would ask to have the amendment offered by me printed.

The PRESIDENT *pro tempore*. The order to print will be made, if there be no objection.

#### EXECUTIVE SESSION.

Mr. THURMAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened, and (at four o'clock and forty minutes p.m.) the Senate adjourned.

#### IN SENATE.

TUESDAY, March 23, 1875.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

#### PAY OF PAGES OF THE SENATE.

Mr. MITCHELL. I move that the Senate proceed to the consideration of the resolution offered by me yesterday morning in relation to the pay of pages.

The motion was agreed to; and the Senate proceeded to the consideration of the following resolution:

*Resolved*, That the Secretary of the Senate be directed to pay to the pages of the Senate at the rate of \$2.50 per diem pay to the 15th day of April, 1875.

Mr. DAVIS. I understand this is usual. Therefore I do not object to it, but I think it is in the wrong direction.

Mr. FRELINGHUYSEN. I am aware that the Senator from Vermont [Mr. MORRILL] had an amendment which he proposed to offer.

Mr. MITCHELL. If it is thought best to let the resolution lie over until he comes in, very well.

The PRESIDENT *pro tempore*. The resolution will be laid over.

#### CLERK OF COMMITTEE ON MILITARY AFFAIRS.

Mr. LOGAN. I desire to submit a resolution to the Senate, if consistent with their views:

*Resolved*, That the clerk of the Committee on Military Affairs be continued on duty during the adjournment of Congress for the purpose of preparing and revising articles of war to be presented to Congress in December next.

I will state to the Senate, so that they may understand it, that this last winter I reported a bill providing for new articles of war, making several changes; and during the recess I thought of getting an Army officer to go over it and leave the clerk, if we should agree to continue him here, to make a perfect revision, so that the articles of war might be presented to the next Congress. If the Senate do not think it is proper to do that, very well; I only say I think it well enough to do it.

The resolution was considered by unanimous consent, and agreed to.

Mr. LOGAN subsequently said: I have learned since the resolution passed in reference to continuing the clerk of the Military Committee that by a provision of law passed at the last session committee clerks can receive no pay whatever during the recess. If that be the case, I move to reconsider the resolution and I will withdraw it.

The motion to reconsider was agreed to.

Mr. LOGAN. I withdraw the resolution.

The PRESIDENT *pro tempore*. The resolution is withdrawn.

#### PRESIDENT'S ACTION IN LOUISIANA.

The Senate resumed the consideration of the resolution submitted by Mr. FRELINGHUYSEN on the 16th instant, the pending question being on the amendment of Mr. WHYTE to the amendment of Mr. ANTHONY.

Mr. JONES, of Florida. Mr. President—

Mr. ANTHONY. With the assent of the Senator from Florida, I would like to state that yesterday I said that after having conferred with Senators on both sides of the Chamber I arrived at the opinion that this debate was nearly exhausted, and that I had an expectation and something more than an expectation, from what I have learned, that it might be readily concluded to-day; and the few Senators who desired to speak preferred to speak in the hours usually devoted to the daily sessions of the Senate. Some Senators have been detained here, at great inconvenience on account of personal and domestic reasons which they readily subordinated to the public interest but which are entitled to our consideration; and it seemed that it would be fair to both sides and conformable to the courtesy that has always prevailed in this Chamber, and that I trust always will prevail, that we should allow those Senators to speak at the time most agreeable to themselves. Therefore we adjourned at the usual hour yesterday, with the understanding that this debate should close to-day. I repeat, therefore, that I shall ask the Senate to-day to remain in continuous session, without adjournment and without recess, until we reach a vote upon this question.

Mr. JONES, of Florida. I do not expect, Mr. President, to be able to throw any additional light on this subject which has been so extensively discussed by the many able gentlemen who have preceded me